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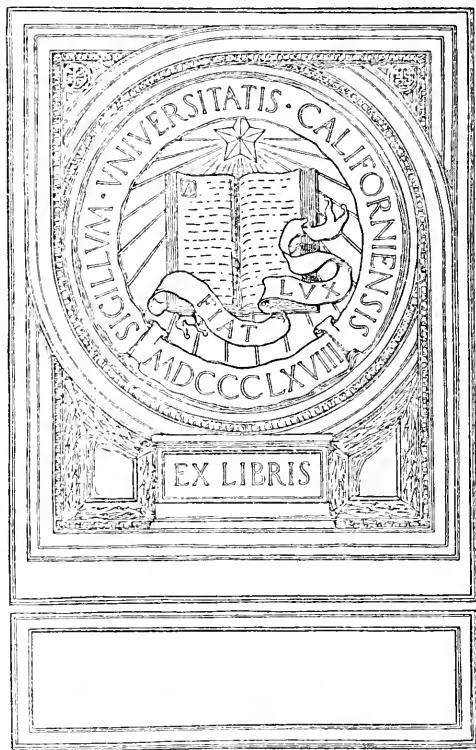
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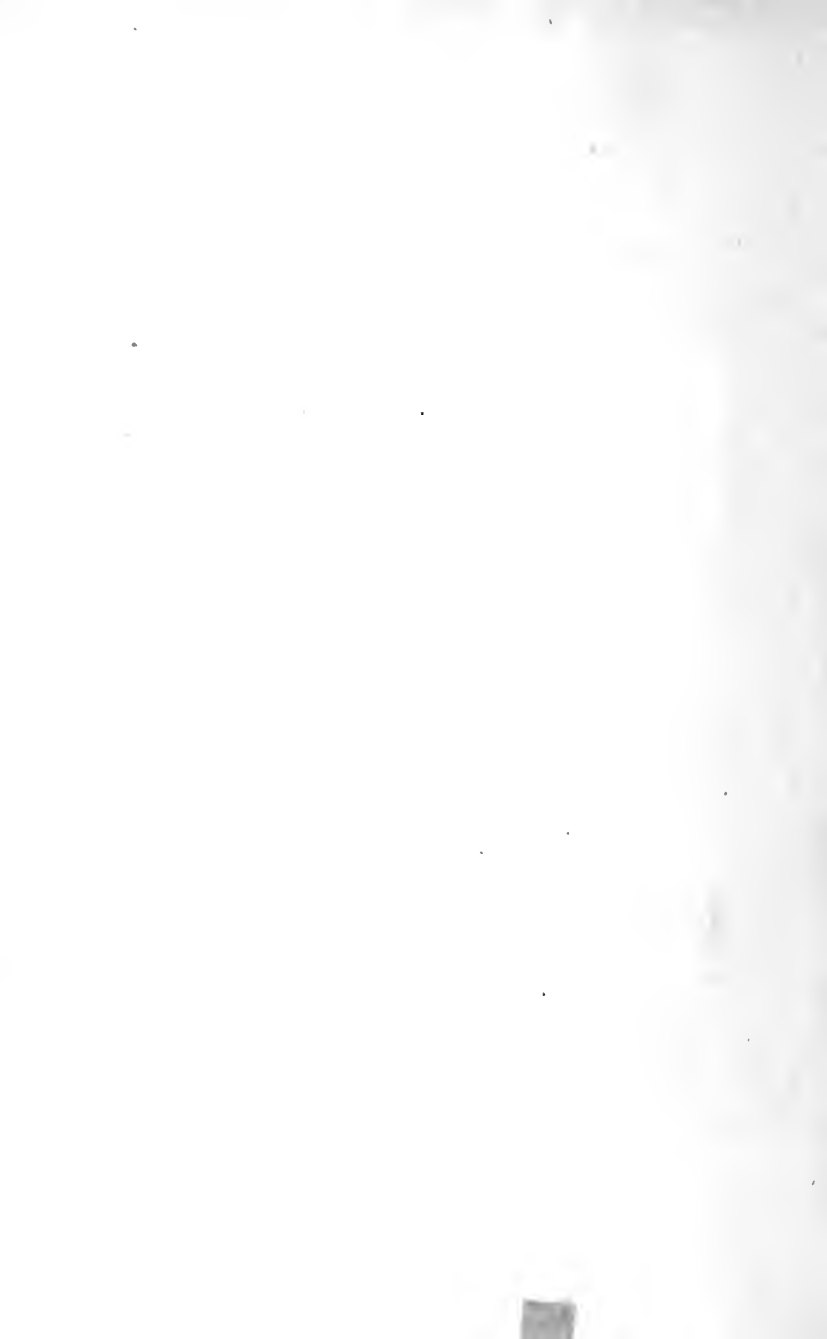
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EXPLANATORY NOTE

Recent Congressional legislation for an income tax has aroused wide-spread interest in the subject, and the demand for information concerning the tax has made necessary a new edition of this volume in a little over a year. Nearly all the material in the first edition has been retained, and the volume has been brought up to date by the addition of new articles and references. Two much-discussed features of the proposed laws were the graduation of the tax and the exemption of incomes under a given amount, and an effort has been made to include the best material on these features also. The general plan of the former volumes in this series has been followed, and the book contains a bibliography, as well as reprints of parts or all of the most valuable articles on the subject. Many of the references examined were out of date or too technical for the purposes of this book, and these have been omitted, rendering the bibliography, it is believed, of more practical service to the readers for whom it is intended than if all references had been included. No attempt has been made to suggest a question for debate, and the magazine articles have not been grouped as affirmative or negative; instead, an annotation is given for each article, indicating its character. This compilation has been prepared especially for the use of debaters and others making a study of the subject, but will be useful to anyone desiring information on this method of taxation. Librarians will find it especially helpful in furnishing material they do not have already, and even of duplicating articles they do have, thereby serving more people at the same time.



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BIBLIOGRAPHY

A star (*) preceding a reference indicates that the entire article or a part of it has been reprinted in this volume.

BIBLIOGRAPHIES

Brookings, W. Du Bois, and Ringwalt, Ralph Curtiss. Briefs for Debate. pp. 117-20.

Kennan, Kossuth Kent. Income Taxation: Methods and Results in Various Countries. Burdick & Allen, Milwaukee, Wis. 1910.

Bibliography of books and magazine articles consulted and cited. pp. 336-42.

Kinsman, Delos Oscar. Income Tax in the Commonwealths of the United States. In American Economic Association, Publications, 3d ser. 4: no. 4. '03. p. 126.

Seligman, Edwin R. A. Income Tax: A Study of the History, Theory and Practice of Income Taxation at Home and Abroad. pp. 675-700. The Macmillan Co., New York. 1911.

This bibliography is especially rich in references to the income-tax literature of England, France, Germany and other foreign countries.

Seligman, Edwin, R. A. Progressive Taxation in Theory and Practice. In American Economic Association, Publications. 9: nos. 1-2. Ja.-Mr. '94. pp. 218-22.

A bibliography on the theory of progressive taxation. The majority of the articles are in foreign languages.

Seligman, Edwin R. A. Progressive Taxation in Theory and Practice. 2d ed. rev. and enl. In American Economic Association Quarterly. 3d ser. 9: no. 4. D. '08. pp. 325-31.

A bibliography on the theory of progressive taxation. The majority of the articles are in foreign languages.

United States. Library of Congress—Division of Bibliography. Select List of Works Relating to Taxation of Inheritances and of Incomes. 20c. Supt. of doc.

- Washington (state). Select List of Works Relating to the Income Tax. Comp. by Josephine Holgate, Reference Assistant, State Library, Olympia. 1910.
A brief is also included.

GENERAL REFERENCES

Books, Pamphlets and Documents

- Adams, Henry Carter. Science of Finance: An Investigation of Public Expenditures and Public Revenues. pp. 356-61, 476-8.
- Bastable, Charles Francis. Public Finance, 3d ed. pp. 271-2, 347-59.
- *Bliss, William D. P., ed. New Encyclopedia of Social Reform. Article on Income Tax.
- Bullock, Charles Jesse. General Property Tax in Switzerland. In State and Local Taxation, Fourth International Conference under the Auspices of the International Tax Association. Addresses and Proceedings. pp. 53-84. International Tax Association, Columbus. 1911.
- Bullock, Charles Jesse. Selected Readings in Public Finance. pp. 254-306.
- Buxton, Sydney. Finance and Politics; an Historical Study.
See Index to Vol. I. p. 360; to Vol. II. p. 391.
- Buxton, Sydney. Handbook to Political Questions of the Day and Arguments on Either Side, with an Introduction. 7th ed. pp. 245-53. 11th ed. pp. 302-13.
Contains a summary of the main arguments for and against the graduation of the income tax. Will be helpful in making a brief.
- Choate, Joseph H.; Guthrie, Wm. D.; Morawetz, Victor; Fox. Austen J.; and Milburn, John G. Memorandum Submitted to the Legislature of the State of New York in Opposition to the Proposed Sixteenth Article of Amendment to the Constitution of the United States. Separate Concurring Memorandum, by Francis Lynde Stetson. New York City. 1910.
Can be secured on application to Joseph H. Choate, 60 Wall St., New York City.
- Clarke, Albert. Proposed Federal Income Tax. Why the Constitution Should Not be Changed. 11p. Home Market Club. Boston. 1910.
Can be obtained on application to the Home Market Club.

Congressional Record. 44: 1763-6. My. 5, '09. Income Tax. William E. Borah.

In favor of an income tax.

*Congressional Record. 44: 2209. My. 18, '09. Income Tax. Chauncey M. Depew.

Objects to the tax because (1) it is an attack upon the protective system; (2) if levied as a direct tax, it would be unequal; (3) it should be reserved to the states and not to the federal government.

Congressional Record. 44: 2243-59. My. 19, '09. Proposed Income Tax. George Sutherland.

This is mainly a discussion of the question whether the income tax is valid under the constitution.

Congressional Record. 44: 2505-7. My. 27, '09. Income-Tax Amendment.

Contains the text of Senator Bailey's income-tax amendment to the tariff bill.

Congressional Record. 44: 2518-9. My. 27, '09. Income Tax. Francis Griffith Newlands.

The income tax is needed to provide revenue for the completion of the constructive work which the government has undertaken.

Congressional Record. 44: 4150-2. Jl. 3, '09. Income Taxes Abroad.

Reprinted from the United States Consular and Trade Reports. no. 345. pp. 209-16. June, 1909.

Congressional Record. 44: 4285. Jl. 7, '09. Income Tax. Albert B. Cummins.

Answers some objections to a general income tax.

Congressional Record. 44: 4346-8. Jl. 7, '09. Bailey Income-Tax Amendment to the Tariff Bill.

The text is given of the substitute for section 6 of the tariff bill.

*Congressional Record. 44: 4524-5. Jl. 12, '09. Income Tax. Richmond Pearson Hobson.

Says direct taxation should be substituted for indirect taxation in the United States.

Congressional Record. 44: 4526-8. Jl. 12, '09. Income Tax. Lincoln Dixon.

His main argument is that wealth should bear its share of the public burden of taxation.

Congressional Record. 44: 4547-8. Jl. 13, '09. Income Tax. Martin Dies.

Welcomes the income tax as a step in the direction of equality of taxation.

- Cohn, Gustav. *Science of Finance*. pp. 485-520.
- Congressional Globe. 41st Congress, 3d Session. pp. 720-3. Ja. 25, '71. *Income Tax*. John Scott.
Declares the tax unjust, unequal, and unconstitutional.
- Congressional Globe. 41st Congress, 3d Session. pp. appendix 58-64. *Income Tax*. John Sherman. Delivered January 25, 1871.
In favor of the income tax.
- Congressional Record. 26: 3557-68. Ap. 9, '94. *Tariff Bill and the Income Tax*. David B. Hill.
Protests against the imposition of an income tax.
- Congressional Record. 26: appendix.
Contains speeches for and against the income-tax bill of 1894.
- Congressional Record. 31: appendix.
Contains speeches on the subject of an income tax.
- *Congressional Record. 31: appendix 381-5. *Income-Tax—Its Relations to Political Economy, to the Constitution, and to the Supreme Court Decision*. William Henry Fleming. Delivered April 29, 1898.
In favor of an income tax.
- *Congressional Record. 43: 2842-3. F. 20, '09. *Income Tax*. Gilbert M. Hitchcock.
In favor of an income tax.
- Congressional Record. 44: 502-6. Mr. 31, '09. *Taxation of Incomes*. Cordell Hull.
In favor of an income tax.
- Congressional Record. 44: 1351-3. Ap. 15, '09. *Proposed Income Tax*. Joseph Weldon Bailey.
The text is given of Senator Bailey's proposed income-tax amendment to the tariff bill.
- Congressional Record. 44: 1468-9. Ap. 21, '09. *Proposed Income Tax*.
Contains the text of Senator Cummins's proposed income-tax amendment to the tariff bill.
- *Congressional Record. 44: 1692-1704. My. 3, '09. *Income Tax*. Joseph Weldon Bailey.
The latter part of his speech is concerned with the constitutionality of an income tax in the United States.
- Congressional Record. 44: 1749-50. My. 4, '09. *Income Tax*. Joseph Weldon Bailey.
All taxes should be laid upon property and not upon consumption.

Congressional Record. 44: 4565-6. Jl. 15, '09. Income Tax: Constitutional Amendment. William G. Sharp.

The graduated income tax places the heaviest burden of taxation on those best able to bear it.

Congressional Record. 44: 4595-6. Jl. 15, '09. Income Tax.

In favor of an income tax.

Congressional Record. 44: 4672-3. Jl. 19, '09. Constitutional Amendment—Income Tax. Courtney W. Hamlin.

An income tax would be the most equitable form of taxation that could be devised.

Congressional Record. 44: 4673-6. Jl. 19, '09. Income Tax—Constitutional Amendment. William E. Cox.

Prefers a graduated income tax to the proposed tax on corporations.

Congressional Record. 44: 4683-5. Jl. 19, '09. Income Tax. Cyrus Cline.

In favor of an income tax.

*Congressional Record. 44: 4685. Jl. 19, '09. Income Tax. Edmund H. Hinshaw.

An income-tax law would prove a salutary measure.

Congressional Record. 44: 4951-2. Jl. 31, '09. Income Tax. Frederick Huntington Gillett.

The income tax menaces the protective system and gives the demagogue opportunity to appeal to class feeling. There is danger, too, of an unjust levy.

Congressional Record. 44: 4963-7. Ag. 2, '09. Income Tax—Constitutional Amendment. Adolph J. Sabath.

Quotes from a speech on the income tax delivered by William J. Bryan in the House of Representatives, January 30, 1894.

Congressional Record. 45: 2539-40. Mr. 1, '10. Letter from Senator Elihu Root to Hon. Frederick M. Davenport. Dated Feb. 17, '10.

He declares that no danger to the powers or instrumentalities of the states is to be apprehended from the adoption of the amendment. (Also printed as a separate pamphlet.)

Cossa, Luigi. Taxation: Its Principles and Methods. pp. 116-25.

G. P. Putnam's Sons, New York. 1888.

Daniels, Winthrop More. Elements of Public Finance. Chap. VIII.

Dewey, Davis Rich. Financial History of the United States. pp. 62-5, 107, 109, 139-41, 305-6, 427, 456-8.

Dougherty, J. Hampton. Proposed Sixteenth Article of Amendment to the Constitution of the United States. Memorandum

Containing a Criticism of Objections to the Amendment, and some Reasons for its Adoption. 17p. New York. 1910.

Can be obtained on request.

Dowell, Stephen. Acts Relating to the Income Tax. 6th ed.

Contains a complete summary of the income tax laws in England, with statutory provisions, "decisions and sections on crown law and procedure affecting the revenue."

Ely, Richard T. Taxation in American States and Cities. Part III. Ch. VII. pp. 287-311. Thomas Y. Crowell & Co., New York. 1888.

Excerpts from the New Zealand Official Year-Book, 1906. pp. 15-22. Land and Income Tax Assessments.

Ford, Worthington C. Income Tax. In Lalor's Encyclopedia of Political Science. pp. 485-90.

Fry, T. Hallett. Income Tax Incubus and the Budget. Horace Cox, London. 1909.

Great Britain. Select Committee on Income Tax. Report: Select Committee Appointed to Inquire into and Report upon the Practicability of Graduating the Income Tax, and of Differentiating, for the Purpose of the Tax, between Permanent and Precarious Incomes. 1906. Valuable.

Hadley, Arthur Twining. Economics, an Account of the Relations between Private Property and Public Welfare. Direct Taxes. pp. 459-75. G. P. Putnam's Sons, New York. 1896.

Hill, Joseph Adna. English Income Tax with Special Reference to Administration and Method of Assessment. In American Economic Association, Economic Studies. 4: nos. 4-5. pp. 247-408. O. '99.

A monograph based on careful investigation of the published materials relating to the English income tax.

Reprinted in part in Bullock, Charles J. Selected Readings in Public Finance. pp. 265-75.

Howe, Frederic C. Taxation and Taxes in the United States under the Internal Revenue system, 1791-1895. An Historical Sketch of the Organization, Development, and Later Modification of Direct and Excise Taxation Under the Constitution. pp. 90-102, 231-6.

Selections are reprinted in Bullock, Charles J. Selected Readings in Public Finance. pp. 281-6.

*Hughes, Charles E. Special Message from the Governor Submitting to the Legislature Certified Copy of a Resolution of Congress, Entitled, "Joint Resolution Proposing an Amendment to the Constitution of the United States." 10p. Albany, 1910.

Can be secured upon request.

Income Tax: Third Annual Inter-Collegiate Debate of the State University of Iowa, against Nebraska and Illinois, 1909-1910. 46p. Address The H. W. Wilson Co., Minneapolis, Minn.

This volume contains both affirmative and negative, constructive and rebuttal speeches of the Iowa representatives. A brief and a short list of references are also included.

Income Tax Question. 19p. Home Market Club, Boston. 1909-1910.

Contents: Argument of a great New York lawyer in the Pollock case; Compromises of the U. S. Constitution would be overthrown by the (16th) amendment; Opinions of many British statesmen against the tax in that country. (Can be secured on application to the Home Market Club.)

Kennan, Kossuth Kent. Comparative Results of Income Taxation in Various Countries. In State and Local Taxation, Fourth International Tax Association Conference under the Auspices of the International Tax Association, Addresses and Proceedings, pp. 111-8. International Tax Association, Columbus, Ohio. 1911.

Kennan, Kossuth Kent. Income Taxation: Methods and Results in Various Countries. Burdick & Allen, Milwaukee, Wis. 1910.

Not a discussion of the question from its theoretical standpoint but a collation of the more important facts regarding methods and results of such taxation in various countries. Should be consulted by all students of the subject.

Kinsman, Delos Oscar. Income Tax in the Commonwealths of the United States. In American Economic Association, Publications, 3d ser. 4: no. 4. '03.

Selections are reprinted in Bullock, Charles J. Selected Readings in Public Finance. pp. 275-80.

Lloyd, Henry Demarest. Newest England; Notes of a Democratic Traveller in New Zealand, with some Australian Comparisons. pp. 104-25.

Means, David MacGregor. Methods of Taxation. pp. 138-71. Dodd, Mead & Co., New York. '09.

Message of the Governor of New Jersey Transmitting to the Legislature the Proposed Sixteenth Amendment to the Constitution of the United States Relative to the Income Tax. 7p. Trenton, N. J. 1910.

The United States should possess the unquestioned power to tax incomes. (Can be obtained on request.)

National Liberal Club Political and Economic Circle, Transactions, 1909. Part 19. Taxation of Unearned Income. J. A. Hobson.

National Tax Association, Proceedings of the First National Conference, Columbus, Ohio, 1907. pp. 241-9. Taxation of Incomes. Charles Lee Raper.

New Zealand Year-Book, 1908. pp. 669-79. Land and Income Tax Assessment.

In New Zealand, a combined land and income tax is in force. This article gives the amount of exemption and rates of graduation for each form of tax.

Nicholson, Joseph Shield. Principles of Political Economy. Vol. I. pp. 214-5; Vol. III. pp. 270-80, 286, 291-2, 337-8, 354-5, 396-402.

Ontario. Assessment Commission. Report, 1902. pp. 18-20, 43-9. Income Tax.

Parsons, Frank. Story of New Zealand. (Equity Series.) pp. 194-203, 777-85.

Pearson, Paul M. Intercollegiate Debates. pp. 91-107. Hinds, Noble & Eldredge, New York. 1909.

Includes a short list of references; also a reprint of an article by Philip S. Post in the Outlook for March 2, 1907. This article is also reprinted in full in the present volume.

Report of the Special Tax Commission of the State of New York. Transmitted to the Legislature January 15, 1907. pp. 58-64. Supplemental Report on the Income Tax.

Root, Elihu. Letter of United States Senator Root on the Income Tax Amendment, written to Senator Davenport. Presented by Senator Davenport to the Senate and Read Also in the Assembly. 8p. Albany, N. Y. 1910.

Can be secured on request. Also reprinted in the Congressional Record, 45: 2539-40. Mr. 1, '10.

Root, John William. Studies in British National Finance. pp. 80-116.

Seligman, Edwin R. A. Essays in Taxation.

Seligman, Edwin R. A. *Income Tax: A Study of the History, Theory and Practice of Income Taxation at Home and Abroad.* The Macmillan Co., New York. 1911.

This book should be read by every student of the subject.

Seligman, Edwin R. A. *Progressive Taxation in Theory and Practice.* In American Economic Association, Publications. 9: nos. 1-2. Ja.-Mr. '94.

Treats first of "the history and actual condition of progressive taxation; secondly, the theory of progression in its historical and positive aspects; and finally the applicability of progression to the conditions as they exist in the United States at the present time."

Seligman, Edwin R. A. *Progressive Taxation in Theory and Practice.* 2d ed. rev. and enl. In American Economic Association Quarterly, 3d ser. 9: no. 4. D. '08.

Seligman, Edwin R. A. *Shifting and Incidence of Taxation.* 2d ed. pp. 307-9.

Sherman, Thomas G. *Natural Taxation: An Inquiry into the Practicability, Justice and Effects of a Scientific and Natural Method of Taxation.* pp. 30-2, 41-5.

Stanwood, Edward. *American Tariff Controversies in the Nineteenth Century.* Vol. I. p. 2; Vol. II. pp. 126, 324, 338.

United States. 53d Congress, 2d Session. House Report 276. *Income Tax and Increase of Tax on Spirits.*

In favor of the income-tax law of 1894. Says it could be collected more cheaply than the internal revenue tax then imposed.

United States. 54th Congress, 1st Session. House Document 11. *Report of the Commissioner of Internal Revenue for the Fiscal Year Ended June 30, 1895.* pp. 190-5.

The report includes a statement of the amount of income tax collected under the law of 1894 before it was pronounced unconstitutional, and of the cost of collecting it. A rough estimate based on these figures shows that the cost of collection would be less than for other internal revenue taxes.

United States. *Monthly Consular and Trade Reports.* no. 345. pp. 209-18. Je. '09. *Income Taxes Abroad.*

Contains (1) a report on the British income tax law by Special Agent Charles M. Pepper; (2) detailed information respecting the proposed French income-tax law.

Partially reprinted in the Congressional Record. 44: 4150-3. July 3, 1909.

United States. *Monthly Consular Reports.* 74: 814-6. Mr. '04. *Incomes and Income Taxes in Saxony.* J. F. Monaghan.

A table is given, showing the classification of incomes under the progressive income-tax law, and the amounts paid.

Wells, David Ames. *Theory and Practice of Taxation*. pp. 169, 305, 363, 514, 517-9, 522-5, 528, 533, 538, 540, 545.

MAGAZINE REFERENCES

**American Economist*. 44: 86. Ag. 20, '09. *Income Tax Experiences*.

An objection to the income tax is that it is difficult to keep the rate low enough to be able to expand it in case of sudden need of more revenue. It ought to be reserved for great national emergencies.

American Economist. 44: 121. S. 10, '09. *Worst and Most Unpopular*.

Illustrates the unfairness of the tax in operation.

**American Journal of Politics*. 3: 650-4. D. '93. *Graduated Income Tax*. John J. O'Neill.

Answers two objections: 1. That the tax is impracticable; 2. That it involves prying into personal affairs.

**American Journal of Politics*. 4: 496-504. My. '94. *Income Tax*. W. T. Dutton.

Gives objections to the \$4,000 exemption feature of the income-tax bill of 1894.

American Law Review. 29: 550-8. Jl.-Ag. '95. *Income Tax Decision and the Power of the Supreme Court to Nullify Acts of Congress*. Sylvester Pennoyer.

Denies the constitutional right of the Supreme Court to interfere with Congress in the exercise of any of the prerogatives conferred upon it by the Constitution.

Annals of the American Academy. 4: 557-89. Ja. '94. *Federal Revenues and the Income Tax*. Frederic C. Howe.

Reviews the history of the tax in the United States.

Quoted from in *Public Opinion*. 16: 476-7. February 15, 1894.

Annals of the American Academy. 6: 268-83. S. '95. *Income Tax Decisions as an Object Lesson in Constitutional Construction*. Christopher G. Tiedeman.

The real explanation of the decision of '95 was the profound disbelief of the majority in the economic merits of the income tax law.

Annals of the American Academy. 30: sup. 82-106. S. '07. *Income in Relation to Taxation*. Charles Herbert Swan.

Says the establishment and maintenance of an income tax is inconsistent with the principles of freedom and justice.

Arena. 35: 213. F. '06. Progressive Income Tax in Victoria, Australia.

The amount of exemption is given, also the rates at which the different amounts of income are taxed.

Arena. 36: 659. D. '06. England's Revenue from Her Income-Tax.

Advocates an income tax as a means of compelling the rich to bear their share of the burdens of government.

*Blackwood's Magazine. 178: 279-84. Ag. '05. Tyranny of the Income Tax.

Declares the income tax to be the "most dishonourable and humiliating tax that has ever been put upon a willing and generous nation."

*Boston Evening Transcript. Mr. 10, '09. New French Tax System.

Contains a description of the new income-tax law.

Chambers's Journal. 84: 321-5. Ap. 20, '07. Anomalies of Income-Tax Collection.

Illustrates the manner in which the English income-tax law is evaded in some instances, and the tax-payer overcharged in others. Chautauquan. 54: 324-6. My. '09. Income Tax.

The Chamber of Deputies in France has recently passed a graduated income-tax law providing for a supplemental tax on large incomes, and numerous exemptions.

Columbia Law Review. 10: 379-415. My. '10. Income Tax Amendment. Dwight W. Morrow.

In his opinion the present amendment is vague and ambiguous.

Contemporary Review. 93: 191-206. F. '08. Limits of Direct Taxation. Hilaire Belloc.

Direct taxation is in appearance the most just, the most immediate and the most simple. Yet it fails after a certain point to fulfill its apparent function.

Current Literature. 47: 129-33. Ag. '09. Income Tax and the Constitution.

Contains arguments for and against the new corporation tax as opposed to a general income tax.

*Economic Journal. 2: 637-52. D. '02. Position and Function of the Income Tax in the British Fiscal System. G. H. Blunden. Reviews the chief reasons for and against the retention of the tax.

*Economic Journal. 4: 639-67. D. '04. American Income Tax. Edwin R. A. Seligman.

A discussion of the income-tax law of 1894.

This article appears in a slightly different form in the Political Science Quarterly. 9: 610-48. December, 1894, under the title, Income Tax.

Economic Journal. 8: 173-82. Je. '98. Reform of Direct Taxation in Austria. R. Sieghart.

Australia has a graduated income tax.

Economic Journal. 8: 325-32. S. '98. Progressive Taxation in Holland. A. J. Cohen Stuart.

Shows that the principle of progression, as applied by the communes, has led in some instances to disastrous results.

*Economic Journal. 11: 481-91. D. '01. Theory of Progressive Taxation. G. Cassel.

Tries to get at a fair method of graduating the tax.

Economic Journal. 17: 417-22. S. '07. Income-Tax in Holland. N. G. Pierson.

Describes the system of income tax used in Holland.

Economic Review. 15: 219-23. Ap. '05. Graduated Income Tax. J. E. Allen.

Proposes a plan for graduating the English income tax.

Economic Review. 19: 410-22. O. '09. Economic Aspects of Income Tax Change. J. C. Stamp.

Says the English tax should be simplified. At present it is too cumbersome and difficult to understand.

Edinburgh Review. 57: 143-68. Ap. '33. Proposed Tax on Property and Income.

An income tax is the fairest of all taxes, but the practical difficulties in the way of its imposition are not of a sort that can be overcome.

Fortnightly Review. 75: 791-8. Ap. '01. Mr. Gladstone as Chancellor of the Exchequer. Sydney Buxton.

History of the income tax in England and Gladstone's efforts to abolish it.

*Fortnightly Review. 87: 807-17. My. '07. Income Tax. Benjamin Taylor.

A description of the graduated income tax systems applied in England, Prussia, Saxony, Duchy of Baden, and Holland.

*Forum. 17: 1-13. Mr. '94. Income Tax: Is it Desirable? David Ames Wells.

An argument against the income tax. "The exemption is . . . a manifestation of tyrannical power, under whatever form of government it may be enforced."

This article is quoted from in Public Opinion. 16: 543-4. March 8, 1894.

Forum. 17: 14-8. Mr. '94. Income Tax: Reasons in its Favor. Uriel S. Hall.

Is in favor of the income tax.

This article is quoted from in Public Opinion. 16: 544. March 8, 1894.

Forum. 18: 537-42. Ja. '95. Is the Existing Income Tax Unconstitutional? David Ames Wells.

The income tax is a direct tax, and is therefore unconstitutional.

*Forum. 19: 48-56. Mr. '95. Is the Income Tax Constitutional and Just? Edwin R. A. Seligman.

Discusses the law of 1894 and says it is calculated to secure justice.

Forum. 19: 513-20. Jl. '95. Salutory Results of the Income-Tax Decision. George F. Edmunds.

The writer upholds the decision of the Supreme Court declaring the income tax unconstitutional.

Forum. 19: 521-31. Jl. '95. Political Dangers of the Income Tax Decision. Edward B. Whitney.

"Contents that past decisions of the Supreme Court had established the constitutionality of the income tax. Discusses possible evil consequences of conceding the right of the Supreme Court to review the decisions of earlier courts."

Forum. 19: 707-22. Ag. '95. Is an Income-Tax Socialistic? W. H. Mallock.

Discusses the characteristics of the tax dependent, first, on the amount of the tax and its result on the classes from which it is taken, and, second, on the use of the fund to which the proceeds of the tax are applied, and its effect on the classes for whom it is expended.

*Forum. 41: 513-20. Je. '09. Shall Incomes Be Taxed? Henry Litchfield West.

The point emphasized in this article is that the Supreme Court decision, standing, as it does, in direct opposition to the decisions of a hundred years will not be accepted as final.

*Harper's Weekly. 52: 32. Je. 6, '08. New French Income Tax M. L. Girault.

The imposition of a progressive income-tax law in France will result in the capitalists investing their money abroad and this will increase rather than decrease the burdens of the poor.

Harvard Law Review. 20: 280-96. F. '07. Income Tax and the Constitution. Edward B. Whitney.

A discussion of the meaning of direct taxes as stated in the Constitution.

Independent. 62: 352-3. F. 14, '07. Income Tax in France.

Discusses the proposed French income-tax law.

Independent. 62: 1516-9. Je. 27, '07. Income Tax in France Jules Siegfried.

Discusses the advisability of a graduated income tax in France.

Independent. 67: 1-2. Jl. 1, '09. Tax on Corporation Net Earnings.

Contains a summary of the Aldrich amendment to the tariff bill.

*Independent. 67: 178-82. Jl. 22, '09. Reason for the Income Tax.

Albert B. Cummins.

Favors a general income tax to be paid by all persons or corporations whose net annual earnings are \$5,000 and over.

Independent. 67: 1497-1501. D. 30, '09. Amending the Constitution. James Albert Woodburn.

Discusses the chances of ratifying of the proposed amendment by the necessary number of states.

Independent. 68: 969-71. My. 5, '10. Income Tax Amendment.

Frederick M. Davenport.

"The amendment is financially and economically innocuous and desirable."

Journal of Accountancy. 10: 2-7. My. '10. Insert No Ambiguity into the Constitution. Austen G. Fox.

Not in favor of the amendment.

Journal of Accountancy. 10: 8-12. My. '10. Income Tax Amendment Should be Ratified. Lawson Purdy.

In his opinion the amendment should pass.

Journal of Accountancy. 10: 13-25. My. '10. No Taxation without Representation. William D. Guthrie.

Not in favor of the amendment.

Journal of Accountancy. 10: 26-42. My. '10. Income Tax Sound in Law and Economics. William E. Borah.

Upholds the proposed amendment.

Journal of Political Economy. 3: 255-88. Je. '85. National Finance and the Income Tax. A. C. Miller.

Indirect taxes are necessary but the income tax is the best method of direct taxation to use when additional revenue is needed.

Journal of Political Economy. 3: 311-37. Je. '85. Legislative History of the Second Income-Tax Law. George Tunell.

"With outline of discussions and arguments employed. Names certain 'imperfections and crudities in the new act.'"

Journal of Political Economy. 4: 37-53. D. '95. Income Taxation in France. H. Parker Willis.

A brief account of the income tax projects from 1848 to the date of the article.

*Journal of Political Economy. 8: 433-51. S. '00. Income Tax and the National Revenues. Max West.

"Discusses the meaning of direct taxation, ideas of the makers of the Constitution, examines the decisions of the Supreme Court in the Hylton and Springer cases as to their inconsistency with the decision upon the income tax in 1894, thinks an income tax by the federal government only attainable by an amendment to the Constitution."—Lib. of Congress.

Journal of Political Economy. 18: 610-27. O. '10. Income Tax in Georgia. William A. Shelton.

"An attempt to bring together the essentials of all extant information in regard to this subject."—Author.

Journal of the Statistical Society. 37: 155-74. Je. '74. Reconstruction of the Income and Property Tax. Leone Levi.

Says the income tax should be maintained and the amount of taxation increased.

*Minneapolis Journal. O. 6, '09. Empire of Japan: Japan's Greatest Problem. Frederick J. Haskin.

Japan has a progressive income tax which is levied at an exceedingly high rate.

*Moody's Magazine. 3: 331-3. F. '07. Inheritance and Income Taxes. M. S. Williams.

The federal government does not need such taxes and it cannot properly or economically utilize them.

Nation. 9: 452-3. N. 25, '69. Way the Income Tax Ought and Ought Not to be Collected.

Answers two objections: 1. That it is oppressive. 2. That it gives rise to fraud.

Nation. 26: 162-3. Mr. 7, '78. Income Tax and Silver Agitators.

Says that the income tax law is offered not as a good way of raising revenue but as a means of harassing a certain class of people.

*Nation. 26: 287. My. 2, '78. Income Tax Here and in England.

The fact that the income tax is successful as a means of raising revenue in England is no argument for its adoption in the United States.

*Nation. 57: 404-5. N. 30, '93. Proposed Income Tax.

Contains a brief review of the income-tax laws of the Civil War period.

Nation. 58: 24-5. Ja. 11, '94. Graver Evils of the Income Tax.

The income tax cannot be justified either on the lines of expediency or justice. It is distinctly class legislation.

Nation. 58: 133-4. F. 22, '94. Beauties of the Income-Tax Law.

Criticizes some of the provisions of the law of 1894.

Nation. 60: 217. Mr. 21, '95. Income Tax. Francis J. Lippitt.

His conclusion is that the income tax is a direct tax and so is unconstitutional.

Nation. 60: 272. Ap. 11, '95. Income-Tax Decision.

The United States is not ready for an income tax.

*Nation. 71: 197. S. 6, '00. English Income Tax.

An argument in favor of the income tax is that it constitutes a check on public expenditures.

Nation. 92: 84-5. Ja. 26, '11. Income Tax. X. Y. Z.

It would be better to curtail present Congressional extravagance than to increase the power of taxation.

National Civic Federation Review. 2: 14-6. Mr.-Ap. '07. Income and Inheritance Taxes Discussed.

Arguments for and against the income tax; a review of the discussion of the income and inheritance taxes which took place at the 6th annual meeting of the Federation.

National Monthly. p. 166. O. '09. Income Tax. Everett P. Wheeler.

A résumé of income-tax legislation in the United States.

New Englander. 37: 543-52. Jl. '78. Shall Incomes Be Taxed? Henry C. Kingsley.

Discusses objections to the income tax and the question of its constitutionality.

*New Englander. 54: 39-43. Ja. '91. Shall We Have an Income-Tax? George A. Butler.

The income tax is fair in principle but in actual practice it proves to be the most unjust of all taxes.

Nineteenth Century. 16: 56-67. Ja. '07. Evolution of the Income Tax. George McCrae.

In favor of graduating the tax.

*North American Review. 130: 236-46. Mr. '80. Communism of a Discriminating Income-Tax. David Ames Wells.

Says that exemption and graduation cannot be "founded or defended on any sound principles of free constitutional government."

*North American Review. 158: 1-7. Ja. '94. Income Tax on Corporations. William L. Wilson.

An income tax on the earnings of corporations is proposed to make up the deficit in the revenues.

Reprinted in condensed form in Public Opinion. 16: 355-6. January 11, 1894.

North American Review. 158: 150-6. F. '94. Income Tax in England. John Lubbock.

Describes the income-tax system in England.

North American Review. 160: 601-6. My. '95. Spirit of the Tax. Plain-Speaker.

An undue tax on wealth causes it to cease to be productive. In the end it "reacts on labor by contracting its enterprises."

North American Review. 182: 824-8. Je. '06. Graduated Taxation of Incomes and Inheritances. Wayne Mac Veagh.

In favor of a graduated income tax.

*North American Review. 190: 615-27. N. '09. Relations of State and Federal Finance. Edwin R. A. Seligman.

The income tax is a desirable adjunct to our scheme of federal taxation.

North American Review. 191: 755-61. Je. '10. Income-Tax Amendment. William E. Borah.

The passing of this amendment gives no new taxing power to Congress, nor does it limit the present powers of the states.

Outlook. 49: 312-3. F. 17, '94. Income Tax in England. Edward Porritt.

The English income tax is regarded favorably by the people and is easy to collect.

*Outlook. 85: 503-8. Mr. 2, '07. Income Tax: A Study of Its Advantages and Disadvantages as a Form of Federal Taxation. Philip S. Post.

Arguments both for and against the income tax are given. The author contends that the exemption of all but the larger incomes is class legislation and is a violation of elemental rights.

This article is also reprinted in full in Pearson, Paul M. Inter-collegiate Debates. pp. 91-107.

*Outlook. 93: 328-9. O. 16, '09. Income Tax.

Taxation should be determined not by the ability of the individual but by the service the state renders to him. Property should be taxed rather than income.

Outlook. 93: 602-3. N. 13, '09. Income Tax.

A reply to the income-tax editorial in the Outlook. 93: 328-9. October 16, 1909.

Outlook. 94: 109-11. Ja. 15, '10. Governor Hughes and the Income Tax.

An answer to Justice Hughes's objection to the amendment.

Outlook. 94: 215-9. Ja. 22, '10. Income Tax Amendment. Norris Brown.

An argument for the wisdom of giving power to Congress to impose the tax should it prove desirable or necessary.

Outlook. 94: 552-3. Mr. 12, '10. Senator Root and the Income Tax Amendment.

The proposed amendment will not grant the power to tax state bonds and securities.

Outlook. 95: 49-50. My. 14, '10. Income Tax Amendment Not Ratified in New York State and Massachusetts.

Not in favor of an income tax.

Overland, n.s. 25: 184-7. F. '95. Is Opposition to the "Income Tax" Either Logical or Legal? Charles J. Swift.

Answers two objections: 1. That it is unconstitutional. 2. That it is inquisitorial.

Political Science Quarterly. 4: 37-65. Mr. '89. Income and Property Taxes in Switzerland. Gustav Cohn.

The experience of Switzerland would seem to show that "every existing state is forced to depend upon a comprehensive scheme of indirect taxation. The income tax can only supplement at best."

Political Science Quarterly. 9: 610-48. D. '94. Income Tax. Edwin R. A. Seligman.

This article appears in slightly different form in the *Economic Journal*. 4: 639-67. December, 1894, under the title, *American Income Tax*.

Political Science Quarterly. 10: 221-47. Je. '95. Income Tax in the American Colonies and States. Edwin R. A. Seligman.

Contains a brief summary of the income-tax systems of the various states.

Political Science Quarterly. 13: 442-76. S. '98. Direct and Indirect Taxes in Economic Literature. Charles J. Bullock.

A classification of the various distinctions made by economists between direct and indirect taxes.

Political Science Quarterly. 16: 701-11. D. '01. Taxation in the Philippines. Carl Copping Plehn.

The Philippine income tax avoids almost entirely the difficulties of a personal declaration of income and the dangers of misrepresentation.

*Political Science Quarterly. 25: 193-219. Je. '10. Income-Tax Amendment. Edwin R. A. Seligman.

An answer to Justice Hughes's contention that the amendment would give the federal government power to impair the credit and independence of the states.

Progress. 5: 296-7. F. '00. Taxation of Incomes.

Contains a good condensed statement of the Supreme Court decision in the Pollock case.

Quoted from Daniels, Winthrop More. *Elements of Public Finance*. pp. 200-2.

Public Opinion. 15: 169-70. My. 20, '93. Income Tax.

Contains arguments both for and against the imposition of an income tax.

*Public Opinion. 15: 193-4. My. 27, '93. Income Tax.

Comments of the press on the proposed income tax.

Public Opinion. 15: 218-20. Je. 3, '93. Income Tax.

Contains arguments both for and against the income tax.

Public Opinion. 15: 242-4. Je. 10, '93. Income Tax.

Contains arguments both for and against the income tax.

*Public Opinion. 15: 264-6. Je. 17, '93. Income Tax.

Press comments in favor of and against the proposed income-tax law.

Public Opinion. 16: 355-6. Ja. 11, '94. Income Tax on Corporations. William L. Wilson.

Condensed from the North American Review. 158: 1-7. January, 1894.

Public Opinion. 16: 476-7. F. 15, '94. Federal Revenues and the Income Tax.

Quoted from the Annals of the American Academy. 4: 557-89. January, 1894.

Public Opinion. 16: 543-4. Mr. 8, '94. For and Against an Income Tax.

Excerpts from articles on the income tax by David Ames Wells and Uriel S. Hall. Forum. 17: 1-13, 14-8. March, 1894.

Public Opinion. 17: 335. Jl. 12, '94. Senator Hill's Objections to the Income Tax.

A summary of the main arguments against the income-tax law of 1894.

Quarterly Journal of Economics. 3: 436-61. Jl. '89. Direct Tax of 1861. Charles F. Dunbar.

Discusses the passing and actual working of the law.

Quarterly Journal of Economics. 6: 207-25. Ja. '92. Prussian Income Tax. Joseph Adna Hill.

"The development of personal taxation in Prussia has resulted in the adoption of a partially progressive income tax."

Reprinted in part in Bullock, Charles J. Selected Readings in Public Finance. pp. 254-65.

Quarterly Journal of Economics. 8: 416-52. Jl. '94. Civil War Income Tax. Joseph Adna Hill.

"Takes up in turn the adoption of an income tax, difficulties as to the rate to be levied, taxation of certain classes of dividends, definition of 'income,' administration of the income tax, question of the continuation of the act, the assessment of the tax, and the income tax as a war tax."

Quarterly Journal of Economics. 20: 287-300. F. '06. British Income Tax in Recent Years. W. H. Price.

The recent reports of the British commissioners of inland revenue show that the tax is so well administered "that it responds quickly to changes in national prosperity but is not sensitive to the rate at which it is levied."

Quarterly Journal of Economics. 23: 296-306. F. '09. Present Period of Income Tax Activity in the American States. De los Oscar Kinsman.

The current movement in favor of an income tax is due not "to the success of the tax in any state, but rather to the spirit of reform now sweeping the country."

*Quarterly Review. 206: 331-53. Ap. '07. Income Tax. Benjamin Taylor.

Does not favor graduation of the tax or exemption.

Review of Reviews. 33: 736-7. Je. '06. Movement in England toward a Graduated Income Tax.

Larger exemptions should be granted to men supporting families.

Review of Reviews. 41: 272-3. Mr. '10. Governor Hughes and the Income Tax.

Discusses the chances of the adoption of the sixteenth amendment.

Saturday Review. 61: 141-2. Ja. 30, '86. Graduated Income-Tax.

The principle of graduated taxation, if once introduced, could be extended indefinitely.

Saturday Review. 69: 68-9. Ja. 18, '90. Income-Tax.

The operation of the income tax is clumsy and offensive and results in fraud.

Single Tax Review. pp. 5-8. My.-Je. '08. Demand for an Income Tax. John Harrington.

Objects to the tax because (1) the exemption feature is opposed to the American idea of equality; (2) the tax is inquisitorial; (3) it puts a premium upon fraud.

Spectator. 59: 1331-2. O. 9, '86. Income-Tax in France.

Discusses the difficulties of imposing an income tax in France.

Spectator. 70: 595-6. My. 6, '93. Income-Tax Schemes.

Graduation and differentiation of the tax will destroy its efficiency.

*Spectator. 95: 246-7. Ag. 19, '05. Graduated Income-Tax.

A comparison of the methods of graduation, exemption, and differentiation in force in various countries.

*Survey. 23: 515-8. Ja. 15, '10. English Budget Proposals. Edwin R. A. Seligman.

The English income tax now includes the features of exemption and graduation.

Westminster Review. 77: 52-69. Ja. '62. Income-Tax Reform.

Discusses the need for differentiation of the tax.

Westminster Review. 144: 401-8. O. '95. Graduated Taxation in the Canton de Vaud. W. B. Duffield.

The idea of graduated taxation prevailed widely and has been carried into effect in many of the self-governing communities which make up the Swiss Confederation.

Westminster Review. 146: 555-66. N. '96. Graduated Income Tax. James Burns.

Discusses the principles of graduation and describes schemes for putting it into practice.

Westminster Review. 165: 22-30. Ja. '06. Next Budget. W. D. Macgregor.

Property and possessions should be the measure of taxation rather than income.

Westminster Review. 165: 124-31. F. '06. Earned and Unearned Incomes and the Income Tax. A. Hook.

Discusses differentiation between earned and unearned incomes.

Westminster Review. 166: 115-7. Ag. '06. Income-Tax Inquiry.

The income tax is a direct tax on honesty and its economic effect is to discourage trade and industry and to cause unemployment.

SELECTED ARTICLES ON THE INCOME TAX

INTRODUCTION

The submission by Congress in 1909, to the various state legislatures, of an amendment to the Constitution of the United States, giving Congress the power to tax incomes, is by no means an attempt to make possible a new or untried form of taxation. The income tax was employed in the United States to provide revenue for the Civil War; for many years it has played a leading part in the fiscal systems of England and Germany; a bill for its adoption is now pending in France; and it is a more or less important element in the tax systems of many other countries.

The income tax varies in theory from taxes on land, on the individual, on product, or on expenditure, in that it conforms more closely to the principle of faculty, or ability to pay. We therefore find the tax developing out of taxes on property and expenditure where there is a desire to apportion the burdens of government according to the ability of its citizens to bear such burdens.

Prior to the nineteenth century, only two attempts of any importance were made to levy taxes on income. In Florence, during the temporary reign of democratic liberty in the fifteenth century, the property tax was converted into an income tax in order to reach the earnings of the large merchant princes of the times. The method of administration was woefully inefficient, and with the overthrow of democracy, the tax passed away.

The other attempt was the *taille* laid upon the French people before the Revolution. It was chiefly a land tax modified somewhat according to ability to pay. It was supplemented first by

the capitation tax, then by the *dixième* and *vingtième* which were, in effect, taxes on income. Frauds, abuses and injustice became so prevalent that with the Revolution, the entire system was swept away.

The income tax made its first appearance in England in 1798, when it was levied by Pitt to provide revenue for the war against France. It was known as the "triple assessment" and was continued in force with more or less important modifications until 1816 when its enemies succeeded in having it repealed. A strong sentiment in favor of the tax remained, nevertheless, and in 1842 Peel reimposed it in order to meet the deficiencies of the budget without resorting to an increase of the already burdensome taxes on expenditure. The tax was intended as a temporary measure only, but in spite of the efforts of Gladstone and others of his opinion, to repeal it, the tax remained, the rate varying from year to year to meet the exigencies of government.

Gradually the feeling grew that the income tax was destined to remain a permanent part of the English tax system, and, toward the close of the nineteenth century, steps were taken to increase its efficiency. Up to this time, no provision had been made for differentiating between earned and unearned incomes, or for taxing the incomes of the rich at a higher rate than those of the poor. Both of these principles were rapidly coming to be recognized as sound and just in theory, the difficulty was to embody them in the present system in a manner that would be practical. To solve the problem, two committees were appointed, one, the Departmental Committee of 1904, to consider the entire question of the income tax, and the other, the Select Committee of 1906, to study especially the features of differentiation and graduation or progression. Following the recommendations of these committees, the principle of differentiation was adopted in 1907, and graduation in 1910.

The characteristic feature of the English income tax is the method of collection, known as "stoppage-at-source." Incomes are separated into schedules, and the tax in each schedule is collected as far as possible from the individual or firm paying the amount which is to become the income of the person assessed. All incomes below £160 are exempt altogether from the tax,

while abatements are allowed in slowly diminishing amounts on incomes under £700. All incomes over this amount pay the full rate. Differentiation is applied only to incomes above £2000, earned incomes above this amount being taxed at a slightly lower rate than unearned incomes. Graduation is provided for by a super-tax on all incomes over £5000 on the amount by which the income exceeds £3000. A personal declaration of income is called for in this part of the tax only, and adequate provision is made for the assessing of the tax on such persons by the Special Commissioners in case no return is made voluntarily.

The determined opposition of former years has gradually given way to a recognition of the usefulness of the income tax as a means of revenue. The change in the public attitude toward the whole question of taxation is partly responsible for the increasing favor with which the tax is regarded, but it is even more due to the improvements in the principle of the tax and the methods of administration. The "stoppage-at-source" method of collection has resulted in a comparatively small amount of fraud and evasion, with little annoyance to the taxpayer from inquisitorial procedure on the part of the tax officials. While fraud and injustice have by no means disappeared, the tax may be considered a success.

The administration of the income tax in Germany, especially in Prussia, is in striking contrast to the English system. Here, a compulsory declaration of income is required from every one whose annual income is over 3000 marks. Incomes under this amount are assessed by the local officials. With compulsory declaration is coupled the most extreme and arbitrary power on the part of the tax officials, to question the tax-payer and even to compel him to show his books and papers.

Prussia was the first of the German states to take steps toward an income tax, the first move being the adoption of a class tax in 1820. This was followed in 1851 by a class and classified-income tax, which provided for a class tax on incomes under 1000 thalers, supplemented by a classified tax on incomes of 1000 thalers and over, the highest income taxable being 2,40,000 thalers. It was assessed by officials but any inquiry into the financial conditions of the tax-payer was forbidden. The administrative

short-comings of the tax and the exemption of the wealthy citizens made it increasingly unpopular, and in 1891, the law was thoroughly revised. With a few important modifications, this law is still in force.

The law of 1891 abolished the class tax altogether, substituting for it a general income tax. All incomes under 900 marks are exempt, entirely, and incomes above this amount are separated into seventy-five grades, with a fixed tax in each. Abatements are extensive and differentiation is made between earned and unearned incomes.

The income tax is now a feature of the system of taxation in all the twenty-five states of Germany, except Bavaria and the two Mecklenburgs. The scheme is everywhere similar, and the tax has become an effective fiscal measure. The opposition of the people has been practically overcome, and, in spite of inquisitorial methods of collection, the administration is very efficient. It is doubtful, however, if such stringent methods could be employed in a more democratic country.

In Italy, the income tax has been less successful. The English method of taxing incomes at the source has been incorporated into the Italian system, but the rates are exceedingly high, and public conscience has given way under the strain. In Austria the tax is far from being a success. The yield is small and the administration is inefficient. The chief source of revenue in Switzerland is the general property tax supplemented in some of the cantons by an income tax. Bern, alone, has a general income tax. The tax is generally considered to have failed as a cantonal measure. Japan levies a progressive income tax at a high rate, reaching as high as 68% on the largest incomes. Holland and New Zealand have passed laws for an income tax, providing for both graduation and exemption. In Holland the tax is laid on the net income only. Hungary, Denmark, Australia and the states of Massachusetts, Virginia, North and South Carolina, and Oklahoma also levy taxes on incomes. As a rule, these state tax laws are not rigidly enforced and the yield is insignificant.

—The income tax idea is extending gradually to other countries, the two latest movements of importance developing in the United

States and France. Following the Revolution, a system of direct taxation was instituted in France which still exists. It was remarkably successful at first, but the growth of large fortunes resulted in the development of inequalities and the system is fairly outgrown. The income tax was suggested as a remedy as early as 1848, and from that time agitation in favor of this method of taxation has been increasingly persistent. After several failures, a bill proposing a tax on incomes was introduced in 1907, by Caillaux, Minister of Finance. It passed the Chamber of Deputies, in March 1909 but was reported unfavorably by the Senate, in 1910. Unless the opposition increases in strength very materially during the next few years, it is probable that the bill will eventually become law.

Caillaux's income tax scheme is a combination of the English and German systems, adapted to French conditions. Incomes are to be arranged in schedules and the tax collected as far as possible at the source, but the principle of differentiation has been carried farther than in England, and, because of the lower standard of living, the amount of exemption and the system of abatements begin with a lower rate of income. From the German system Caillaux has adopted the idea of taxing the entire income but applied it only to the higher incomes. As far as possible, he has avoided the German method of self-declaration, also the arbitrary methods of collection which the Frenchman would not endure.

As early as 1815 an income tax was proposed in the United States to provide revenue for the War of 1812. The early declaration of peace stopped active procedure for the time being, but the tax had its friends and it was finally imposed as a part of the tax code of 1862 which was designed to provide revenue for the Civil War. The tax continued in force with various changes until 1872 when it expired by limitation. During the War, it was successful in bringing in large sums for revenue, but in later years it became increasingly unpopular and less effective. The chief reason for its disappearance, however, was that it was no longer needed. ✓

During the ten or more years of prosperity following the expiration of the tax, it was practically forgotten, but the Demo-

v cratic victory of 1892 coupled with an increasing dislike of the tariff and the necessity for fiscal reform, led to its readoption. In 1894 a law was passed providing for a tax of 2% on all incomes, on the excess over \$4,000. Incomes under this amount were exempt.

Scarcely had the tax been put into effect when it was sharply contested and the matter carried to the Supreme Court. The Court declared the income tax to be a "direct tax," and therefore unconstitutional, as the Constitution provides that direct taxes must be apportioned among the states according to their respective numbers, and this tax was not so apportioned. The decision was somewhat of a surprise, for all the former decisions of this Court had concurred in calling a tax on incomes an "indirect tax." The decision was based on a misinterpretation of the meaning of the founders of the Constitution in regard to the words "direct taxes," and it was reached, moreover, by a bare majority, four of the nine members of the Supreme Court voting against it.

This decision placed the government in the uncomfortable position of being unable to tax incomes, even in times of war or similar exigencies. Dissatisfaction and criticism were general, and the feeling grew continually that something must be done to relieve the awkwardness of the situation. Two alternatives presented themselves: either, to frame an income tax law which would be in harmony with the decision of the Supreme Court; or, to amend the Constitution. The first plan seemed less feasible as time went on, and in 1908 the Democratic Party embodied in its platform a resolution to the effect that an amendment be adopted giving Congress the power to lay an income tax.

In his inaugural address, President Taft recommended an inheritance tax to provide the necessary revenue when the tariff was no longer sufficient. Accordingly, a provision for such a tax was incorporated into the new tariff bill which was discussed in Congress during the spring of 1909. The demand in the west for an income tax was so insistent, however, that, as a compromise, the inheritance tax was dropped; a tax of 1% on the dividends of corporations was substituted, and it was agreed to submit to the legislatures of the States an amendment to the

Constitution giving Congress the power to tax incomes. The language of this proposed (Sixteenth) Amendment is as follows: "Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the various States, and without regard to any census or enumeration."

The resolution passed the Senate on July 5, 1909, by a unanimous vote, and the House a week later by a majority of 318 to 14. Alabama was the only state to ratify the amendment in 1909, but the following year twelve out of seventeen states holding legislative sessions, took some definite action. Eight states ratified the amendment and four rejected it, among the latter being New York and Massachusetts. In Louisiana, Senate and House could not agree, and it was decided to submit the matter to the voters at the next primary election. Of the thirty-six states still to vote on the question, all but two were to have legislative sessions beginning in January, 1911. According to the latest information available at this writing, fifteen of the thirty-six states have ratified the amendment and seven have rejected it. In all, twenty-four states have ratified the amendment, eleven have rejected it, and eleven have not taken action.

To ratify an amendment to the Constitution of the United States, a vote of three-fourths of the States must be secured in its favor. Half of the required number have already ratified it. When a state has once voted in favor of an amendment, it has no power to revoke the decision. On the other hand, a vote against it does not make ratification impossible at a later date. The Maine legislature has already reversed its action of last year, the matter has come before the legislatures of New York and Massachusetts a second time, and the question will probably be kept alive until the necessary number of favorable votes is secured. No limit can be placed on the period within which an amendment can be ratified, and it is beyond the power of Congress to recall an amendment that has once been submitted to the States.

SELECTED ARTICLES

New Encyclopedia of Social Reform.

William D. P. Bliss, editor.

Income Tax.

The income tax is a direct levy by a government upon the income of individual citizens, whether that income is received from labor, industry, investments, real estate, or any other source. It is generally computed per annum, but sometimes every three or four years.

Some technical terms and phrases pertaining to the subject need to be explained. *Exemption* from taxation means that small incomes are free, the state holding that the amount of income required for the maintenance of independence and of the standard of living should not be taxed, since it would not only have to return in the form of charity what it took in that of taxes, but would, moreover, undermine the *morale* of its citizens by depriving them of the necessities of life. The excess only is, consequently, to be taxed. *Stoppage at source* has to do with collection of the tax. It indicates that the tax is subtracted from the salary, interest on bonds, dividends on stock, etc., owned by the payer. The paymaster of navy and army, the Bank of England, and the treasurers of corporations in England always withhold the amount of the tax from the amount due the payee. *Uniform* or *proportional* taxation means that all incomes are subject to the same rate, e. g., 1 per cent, or 3 per cent. A tax is called *graduated* or *progressive* when the rate of taxation increases with the amount of income, e. g., 2 per cent on \$1,000 and 3 per cent on \$4,000. *Degressive* means that a certain amount of taxable income is exempt, e. g., in England a man with an income of £400 has £150 free and is taxed only on

£250. The term *regressive* is used to indicate that the rate of taxation increases as income decreases. This form was applied in France before the Revolution. Taxation may, finally, *differentiate* between various forms of income and tax them unequally; e. g., income from farm land is taxed at a lower rate in England than that from real estate in the cities. The differentiation may extend to income from labor, property, permanent and temporary incomes, investments in public and private securities.

American Economist. 44:86. August 20, 1909.

Income Tax Experiences.

London, August 3, 1909.—One of the greatest objections to the income tax and one which England is realizing now in the hard school of experience is its inelasticity. Perhaps that is not exactly the right word to use, for it has a tendency to stretch—one of the qualities of elastic—but never to contract. Once the tax is increased, it is the hardest job in the world to get it reduced again.

Until a few years ago it was the theory of all parties in English politics that the income tax, or at any rate, all but a very small fraction of it, was a war tax. In fact it was in its origin a war tax. It was imposed first by Parliament during the great civil war of 1642, when money was needed to resist the illegal encroachments of the Crown. It became an important factor in the English fiscal system in 1798, when money was needed to fight the French, and Sir Robert Peel reimposed it in 1842 when he was driven to desperation to find some means of raising revenue to take the place of the protective system which was then threatened. Protection fell in England four years later, and since then the income tax has been a fixture.

Some idea of the incapacity of the income tax to contract after it has been stretched may be gleaned from the experience of England since the Boer war. Before the war the tax stood at eight pence in the pound, which is equivalent to 16 cents on every five dollars of income. When the war began, the tax was

rapidly increased until it stood at 30 cents in the pound, and there it remained for a number of years, until finally public clamor became so great that it was reduced to 25 cents. When the Liberal government came into power in 1906, it was elected, among other things, on its promise to reduce the income tax. For the first year, however, it did nothing, but in 1908 the public became so insistent that it was forced to bring the tax down to 18 cents on earned incomes below \$5,000 a year. Unearned incomes of any amount and earned incomes above \$5,000 must still pay at the rate of 25 cents, and on larger incomes, Lloyd George, the Chancellor of the Exchequer, has this year imposed a super tax at the rate of 36 cents, so that for some people the tax is higher than ever. He has also thrown out a net which has gathered in a large number of workingmen whose more or less precarious earnings just bring them within the income tax paying class, and he is getting more money than ever before.

Serious economists in England are gravely alarmed at the present fiscal situation. If there were to be a great European war to-morrow, and England were to be involved, no one knows where the money would be found, for the income taxpayers are bearing their full burden now, and a penny or two more might prove the straw that would break their backs. Free-trade finance has reached its limit. The tax that ought to be reserved for great national emergencies, has been used as an every-day means of raising revenue, and there is no reserve left.

American Journal of Politics. 3: 650-4. December, 1893.

Graduated Income Tax. John J. O'Neill.

The people of the United States in the congressional election of 1890 and the presidential election of 1892 declared overwhelmingly in favor of a radical reduction of tariff taxes.

Their decree must be obeyed; but when we come to consider the ways and means of carrying it out we are brought face to face with a state of things which must be provided for before we are in a position to place in operation any scheme of general tax reduction.

The treasury of the United States is almost empty. It is un-

necessary to discuss the question of the responsibility for this condition of affairs. We know that it exists, and the only point to be considered is as to the remedy which should be applied. In the language of the present chief executive of the nation, uttered when a problem quite as intricate and important as that which is now before us was submitted to the country for decision, "It is a condition that confronts us, not a theory."

On the one hand, we have the positive declaration of the people of the United States, expressed in two congressional elections, that the tariff must be radically reformed; on the other, we have a condition of things which renders it necessary that before the reform which the people have demanded can be carried into effect, some method of taxation must be devised which will make up for the loss of revenues which the revision of the tariff laws will entail.

A form of tax which commends itself strongly to thinking people, and which is rapidly growing in popular favor, is that which is intended to be imposed on large incomes and which varies according to the amount of income taxed. This is known as the graded or graduated income tax.

The principle on which the imposition of an income tax is based is that laid down by Adam Smith, that "the subjects of every state ought to contribute to the support of government as nearly as possible in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state." L

The justice and fairness of this doctrine are so apparent as hardly to be open to argument. No one can question the equity of a law which results in placing the burden of taxation on the backs of those who are best able to bear it and who receive the greatest amount of benefit and protection at the hands of the state; and these are the persons who would be reached by means of an income tax, for it is intended to impose this tax only on incomes exceeding a certain amount, which amount shall be sufficiently large to practically exempt from taxation all persons possessing only a small or even a moderate income.

As stated before, such a tax, if imposed, would be graded in proportion to the amount of income. A tax of one per cent

might be imposed on incomes of, let us say, ten thousand dollars, the rate of tax increasing as the amount of income taxed grows larger, until an income of one hundred thousand dollars would be subject to a tax of ten per cent.

Such a system as this would be eminently just and proper. The man who enjoys an annual income of one hundred thousand dollars can pay for the purposes of the state ten thousand dollars out of that income without experiencing the smallest measure of hardship as a result of being compelled to pay such tax. Such could not be said, however, of the individual with one thousand dollars a year, were he called upon to yield one hundred dollars therefrom for purposes of taxation.

One of the principal arguments advanced by the opponents of this tax is based on its alleged impracticability. In order to refute this claim it is only necessary to point to the experience of the past in this regard.

In the United States a law imposing an income tax went into effect July 1, 1862, and continued in force until December 31, 1871, when it expired by limitation. The rate of tax varied at different times during this period. At the beginning it was placed at three per cent on incomes over eight hundred dollars, at which rate the sum of twenty millions of dollars was raised in 1864. In 1865 thirty-two million dollars was raised. In 1866 the tax rate was increased to five per cent on sums over six hundred dollars and less than five thousand dollars, and ten per cent on incomes in excess of the latter amount. As a result of this increase of rate over seventy-two millions of dollars was raised during that year. This amount was collected from the following sources:

Dividends of banks.....	\$4,240,664
Dividends of insurance companies.....	783,882
Dividends of railroad companies	3,461,769
Canal and turnpike companies.....	230,567
Salaries of officers of national government.....	3,717,396
Account of all other incomes exceeding \$600 and under \$5,000, at 5 per cent.....	26,046,760
Incomes of \$5,000 and over, at 10 per cent.....	34,501,126
Total amount collected.....	<hr/> \$72,082,164

This was the greatest amount received in any one year during the period in which this law was in operation, but the payments continued good until the end of the period, the total amount collected in the nine and a half years during which the tax was levied being upwards of three hundred and fifty millions of dollars.

When we bear in mind the fact that during a large portion of this time the Civil War was raging and business and financial affairs generally were in a state of extreme disquietude, we cannot fail to marvel at the amount raised by means of this tax. There can be no doubt that if imposed at the present time the income tax would yield a revenue very far in excess of that derived from it thirty years ago.

In Great Britain, with a population of only about thirty-five millions, about eighty million dollars was collected in 1888 by means of an income tax law, the rate at the time being eight pence on the pound. At the rate of six pence per pound it is estimated that seventy-five million dollars will be collected during the present fiscal year. This tax is levied only on incomes exceeding one hundred and fifty pounds. It was first imposed over a hundred years ago. On an average one fifth of the revenues of the government are derived from this source.

In Italy, France and Germany experience with this form of tax has led to its permanent adoption. In the last mentioned country the experience of Prussia, as given by Dr. Barth, of Berlin, is that the tax "had been introduced recently in Prussia and was working well in every particular, as the tax affected only those fortunes well able to bear it." Dr. Barth advocates its adoption to meet the extra expense of increasing the German army.

Other instances may be cited, but enough has been shown, in my opinion, to demonstrate that the argument against this tax based on its alleged impracticability rests on an insecure foundation.

Another allegation frequently brought forward against the income tax is that it involves an impertinent prying into the private affairs of the citizen and would necessitate a spy system.

It would be difficult indeed to conceive of a state of affairs

in which spying and impertinent scrutiny of the private concerns of citizens could be carried to a greater extent than in our present tariff and internal revenue systems. The operation of the customs laws proceeds on the theory that all importers are probably seeking to defraud the government. They are required to furnish details as to the cost, place of manufacture, etc., of every article imported. The baggage of travelers arriving on our shores, and even their persons are subject to the scrutiny of customs officials.

Under the internal revenue laws every brewer, distiller, and manufacturer of tobacco must disclose the details of his private business under heavy penalties in the event of false or fraudulent representations. The present laws for taxing personal property are subject to this objection equally with an income tax law.

So that it is obviously out of place for any one who approves of any of these forms of taxation to denounce the income tax as involving an improper scrutiny into the private affairs of individuals. All direct taxes, whether upon personal property, incomes or even upon real estate, must from their very nature be more or less inquisitorial, and the income tax is no more open to this objection than the others mentioned, if indeed it is as much so.

The idea sometimes advanced that the graduated income tax is an empty dream of visionary enthusiasts is not only refuted by the facts already given as to its results wherever placed in operation, but it is condemned out of the mouths of statesmen and financiers who are the idols and oracles of the very persons who raise this senseless cry.

In 1864, William P. Fessenden, then secretary of the treasury, said in his report:

The adoption of a scale increasing the rates of taxation as they rise in amount, though unequal in one sense, cannot be considered oppressive or unjust, inasmuch as the ability to pay increases in much more than arithmetical proportion as the amount of income exceeds the limit of reasonable necessity.

John Sherman in 1882 expressed himself on this subject as follows:

The public mind is not yet prepared to apply the key to a genuine revenue reform. A few years of further experience will convince the whole body of our people that a system of national taxes which rests the whole burden of taxation on consumption, and not

one cent on property or incomes, is intrinsically unjust. While the expenses of the national government are largely caused by the protection of property, it is but right to require property to contribute to their payment. It will not do to say that each person consumes in proportion to his means. This is not true. Every one must see that the consumption of the rich does not bear the same relation to the consumption of the poor as the income of the one does to the wages of the other. . . . As wealth accumulates, this injustice in the fundamental basis of our system will be felt and forced upon the attention of Congress.

It may thus be seen that there are some among the advocates of an income tax who, whatever their faults, cannot justly be stigmatized as long-haired enthusiasts.

The fairness and justice of the graduated income-tax are beyond question, it has been indorsed by financiers of eminence, and the main objections advanced in opposition to it being founded on contentions which are, as has been shown, without merit, the speedy enactment by Congress of a law providing for the imposition of this most just of taxes is much to be desired.

American Journal of Politics. 4:496-504. May, 1894.

Income Tax. W. T. Dutton.

It is an act of arbitrary power, under whatever form of government it may be done, to exempt any man from a certain tax because he has in his possession less than a certain amount of the property which is taxed. Certain small incomes cannot be taxed; for whatever the government takes with one hand as a tax must be returned by the other hand as a charity. Public policy, therefore, exempts all incomes below the cost of supporting a family. An exemption of \$4,000 is an unwarranted favoritism to nine-tenths of the well-to-do people of the United States. Assuming 5 per cent as the average profit of money or other property in this country, a man whose income is \$1,000 enjoys an estate worth \$20,000, while the more fortunate possessors of incomes ranging from \$1,500 to \$4,000, enjoy estates ranging from \$30,000 to \$80,000. These are not poor people. They are abundantly able to pay their fair share of all the taxes the government may find it necessary to levy for its support. It is difficult to justify such an exemption on any but socialistic

grounds. It is not difficult, however, to prophesy that the next turn of the wheel will correct this evil, in part at least, and include among the victims of this tax some who now escape.

The justice of the income tax may well be questioned. It is well known that the purchasing power of a given income varies greatly in different localities. A family can be supported far more comfortably on \$3,000 in Meadville than on \$5,000 in New York. The Meadville family is far the wealthier of the two. Yet it escapes the tax, while the New York family pays \$20 for the privilege of paying \$2,000 more for a poorer living. The same inequality exists between other sections of the country. It is evident that men in different localities are not taxed according to their financial ability, but by a standard extremely variable in its nature. The principle of "equality of sacrifice" which the advocates of the tax insist upon as vital, is palpably violated. Yet it is from these sections, where the necessarily larger cost of living makes the incomes nominally larger, that the greater part of the revenues derived from this tax must come.

Blackwood's Magazine. 178: 279-84. August, 1905.

Tyranny of the Income Tax.

But it is not in favour of this class or that, that we would condemn the income-tax. It is as bad for those who are exempt as for those upon whom it is levied. To absolve the greater part of the people from responsibility is, as we have said, not the way to make thrifty, industrious and patriotic citizens. To thrust a great burden upon a small class is not the way to produce cheerful, eager contributors to the national revenue. Worse still, a tax which cannot be levied without the gossip of hired spies and eavesdroppers, which combines the sly method of the Inquisition with the manners of the footpad, needs no eloquence to condemn it. And when Mr. Chamberlain has carried the country with him, when once again we shall be able to protect our own industries and to retaliate upon the exclusive policy of

our neighbours, not the least advantage of the fiscal reforms will be the abolition, save in times of war, of the most dishonourable and humiliating tax that has ever been put upon a willing and generous nation.

Boston Evening Transcript. March 10, 1909.

New French Tax System.

The government's new scheme for taxation was introduced in the Chamber of Deputies in February, 1907, and constitutes a radical readjustment of France's fiscal system. The old door, window, poll and other direct taxes are to be replaced by a system based upon incomes. Day laborers are practically exempted. The tax on incomes above \$1,000 a year is made progressive up to four percent of the total. Even government *rentes* (securities), excepting those held abroad, only nominally escape, the coupons themselves being exempt, but the revenues therefrom being taxed when the total income of the holder exceeds the minimum laid down. French savings are largely invested in *rentes*. The burdens placed upon foreign securities, both private and governmental, are onerous, and constitute a particularly heavy blow to Russian securities, of which it is estimated that from eight to ten millions are held in France.

Only half a million families are affected by the higher progressive income feature, which alone Finance Minister Caillaux estimates will produce \$24,000,000 a year. The other 9,500,000 taxable families of France are composed of "petits rentiers" who live upon modest savings that produce less than \$1,000 a year and which are liable to the lower rate of taxation. The income tax measure is a combination of the system of direct taxation upon incomes from whatever source, supplemented by a progressive general tax ranging from one-half of one percent to four percent upon total incomes in excess of \$1,000.

The new measure divides the taxes into seven categories. The first three pay 4 percent, and include real property and the income from capital, stocks, bonds, etc., except savings banks

deposits; the next two categories pay $3\frac{1}{2}$ percent, and cover the income from profits from commercial and industrial undertakings and from production; the sixth and seventh categories pay 3 percent, and include salaries, pensions and life annuities above 1250 francs.

The government's estimate of the revenue from the new taxes gives a total of 694,000,000 francs.

Congressional Record. 31: appendix 381-5.

Income Tax—Its Relations to Political Economy, to the Constitution, and to the Supreme Court Decision. Delivered April 29, 1898 by William Henry Fleming.

It is well worthy of note that a tax on incomes has this striking advantage over a tax on commodities that are bought and sold, namely, its rate can be raised or lowered to meet exigencies of revenue without appreciably disturbing prices. Change ever so little the rate of your tariff or excise tax, and immediately there is a fluttering of prices in the market, business is upset, and speculation becomes rife, with its attendant evils. But a change in the tax rate on incomes could produce no such result. The pulse of commercial life would beat on with normal stroke.

Low Cost of Collection.

Again, the low cost of collecting an income tax in connection with our present excise system must commend it to our favorable consideration. According to the highest official authority the cost of collecting the income tax in 1866 was less than 2 per cent, being lower than the cost of collecting any tax then existing except that on banks, which was paid directly at the treasury.

Congressional Record. 43: 2842-3. February 20, 1909.

Income Tax. Gilbert M. Hitchcock.

There is a method of taxation ... which involves no increase in the cost of living to the American people, no restraint on any industry. It is a method which has gone through more than a century of trial in European countries—a method which has been used in Great Britain since 1798 off and on, and which has been used in Great Britain constantly since 1842. It is a method which has been used and is now in use in Prussia, in Austria, and, I think, also in Italy and Switzerland.

It is the income tax, a tax which at the present time is raising for the use of the British government \$162,000,000 a year on a 5 per cent basis, a tax which was tried in the United States from 1863 to 1874, and which during that time raised a total of \$346,908,000, a tax which has stood the test of the Supreme Court on many occasions. A subsequent income tax was only declared invalid by a doubtful and divided court by a decision in the Pollock case. Mr. Chairman, the income tax is not, as most of our present national taxes are, a tax on consumption. It is not a tax which increases the cost of living to the people of the country, as most of our national taxation does, and it is a tax which, with peculiar propriety, calls upon the people in proportion to the benefits which they derive from the protection of the government, and which falls upon them also in proportion to their ability to pay. I have no doubt that if we levied a tax of only 2 per cent on the incomes exceeding \$1,000, this government can secure a revenue greater than the government of Great Britain derives from its tax of 5 per cent. It would more than make up the deficit. It would give us all the additional revenue that we require. This revenue which can be raised in this way will not fall upon the people in proportion to what they consume, as is now the case with practically all of our national revenues, but it will fall upon them as I have stated, in proportion to the benefits which they derive from the government, and also in proportion to their ability to pay.

Mr. Chairman, it is one of the crying disgraces of this

country that wealth does not share its proper portion of the burdens of government. It escapes in all great cities, it escapes in state taxes to a large extent, and when we come to the national revenues, it escapes completely. These millions which we raise every year, these eight or nine hundred millions of dollars in taxes which we levy upon the people of the United States, fall as a burden upon individuals and not as a burden upon wealth. They are levied almost in a per capita method of taxation, so that this great government, bringing prosperity to the people of the United States in great disproportion, is not supported by the people of the United States in proportion to the benefits which they derive, but is supported by them practically as it would be supported if we levied a per capita tax.

Congressional Record. 44: 1692-1704. May 3, 1909.

Income Tax. Joseph Weldon Bailey.

J I now come to state, and I shall state them as briefly as I can, the reasons which have induced me to believe that an income tax ought to be adopted as a settled and permanent part of our fiscal policy. The extraordinary increase in our public expenditures during the last twenty years has rendered it necessary for us to collect in every year a sum of money so great as to almost confuse the human mind; and, of course, the people must supply this money in some way. In searching for that way I could find no better one than that which I am proposing. Under any circumstances an income tax is more equitable than a tax on consumption. It is more just as between the different classes, and it better conforms to that sound canon of taxation which enjoins upon us to lay all taxes on those who can bear them with the least inconvenience; and this general advantage is emphasized by our present condition, for the cost of living has increased so enormously during the last few years that the plainest dictates of humanity require some abatement in the taxes on articles of necessary and daily use.

I have laid this tax on no one whose income does not exceed \$5,000; and certainly no truthful man can look his neighbor in the face and say that with an income of more than \$5,000 he will be seriously embarrassed by the payment of a moderate tax to the general government. Under my amendment an income of \$10,000 would only be required to contribute \$150 to the general treasury.

Under the Republican policy of protection a man is taxed on almost everything he consumes, and I have fixed the exemption at \$5,000 on the theory that an income of that amount is consumed, and having paid a tax to the government, or a tribute to its favorites in spending it, I thought it was simple fairness not to tax him when he was earning it. In other words, I let him take it in without a tax because I knew he had to pay a tax when he paid it out; and assuming that a \$5,000 income was a consumable one, I exempted it from the tax. But that is not all. I was following the rule of laying a tax on those who can bear it with the least inconvenience, and I fixed the exemption at \$5,000 so that no man could complain that the government is taking something from him which he needs.

I did not forget, Mr. President, that in our larger cities a man must have an income of well nigh \$5,000 to live in comfort and educate his children, and I do not want any man to have a right to say that in taking this tax for the government's support I have either taken from his wife a comfort or taken from his children the priceless blessing of an education; and no man can say either under this exemption of \$5,000. The senator from Rhode Island knows as well as I do that in a large family the education of the girls and boys costs almost half an income of \$5,000. Maybe it ought not to be so, and let us hope that it will not always be so; but it is so, and I was dealing with conditions as I found them and not as I would like to have them.

Mr. ALDRICH. The great masses of the laboring people in this country are to-day competing with labor which is paid 6 cents a day, 25 cents a day, 60 cents a day, or an income of say from fifty to three or four hundred dollars a year.

The average earnings of the laboring people of this country are, as I have already stated, less than a thousand dollars a year, or about \$700, as I remember them. Now you are suggesting to those men that you will not tax to any extent the man who earns two, three, four, five, or ten times as much as they do, a hundred times as much as the people who compete with them in the various industries in which they are engaged, and that you propose to levy those taxes upon the higher class of earnings in the United States, for the purpose of reducing the protection which by law and by the declared policy of our party we now give them.

Mr. BAILEY. Mr. President, the laboring man who receives only \$700 a year, has no right to complain because we do not tax the man who receives seventeen hundred. If we taxed him and exempted somebody else, then he would have a full right to condemn us for that discrimination, but so long as we lay no tax on him, he has no right to complain because we do not begin to tax the others until we pass the point which the highest comfort seems to require.

Not only is an income tax more equal than any other as between all taxpayers, but it is more just as between every taxpayer and the government, or at least it can be paid more conveniently.

Under the system of ad valorem taxation a citizen's property might be assessed at \$100,000—it might be a magnificent building filled with tenants, at good rents and of prompt pay. That building might yield \$15,000 per annum when occupied; but, if the day after the assessment became operative, a destructive fire should gather it in its hot embrace and lay it down a mass of charred and blackened ruins, under a system of ad valorem taxation the owner would be compelled to pay the same taxes on it, though it would bring him nothing that year, as he would have paid had it survived the conflagration and yielded him a revenue of \$15,000 a year. It is not so under an income tax, which rises and falls with each man's ability to pay it. If the property that last year fetched the owner \$15,000 should be destroyed or be vacant the better part of this year, and the income should shrink to \$3,000, the taxes would shrink

with it. Under the \$15,000 income, he would enjoy his \$5,000 exemption and pay 3 per cent only on his \$10,000 excess, which he could well afford to pay, but under a condition where it netted him only \$3,000, his income from it would not reach the limit of exemption, and he would not pay a farthing toward the government's support. An income tax is only exacted when the citizen is able to pay, and the exaction is measured by his ability to pay.

But to all this our opponents answer that the tax is inquisitorial and would make us a "nation of liars."

Even if what they say in that regard is true, it is not more true of this than it is of every other law that levies taxes. Every tax law inquires closely into our financial condition, and some men will swear a lie to evade any tax; but this is chargeable against the nature of taxation and against the depravity of man, and not against this particular kind of tax. It no more violates the privacy of your business affairs to compel you to state your income and the sources of it than it does to compel you to list every piece of your property, including the personal ornaments and jewelry of your wife, as you are now required to do in all the states. Not only are all taxes inquisitorial, but they must be so, or otherwise the honest men would pay them and the dishonest men would cheat the law. I do not like to have a tax assessor ask me for an inventory of my property, but I give it without objection, and I would state my income as freely as I would describe the property from which I derive it. I have sought in this amendment—and to that extent it is a copy of the other laws—to guard the business of every citizen against the idle curiosity of gossips, and I have made it a crime for any officer or employe of the government to divulge except under proper conditions, the return which a citizen must make to the internal-revenue collector. This is a protection which is not extended in all the states.

Why should an income tax make us "a nation of liars" any more than our tariff or our present internal-revenue taxes? There is nothing about an income which it is so necessary to conceal, and certainly an income tax is not more difficult to pay because it is never demanded from a citizen unless his

business shows a profit. It calls none to the collector's office except those who have enjoyed a prosperous year, and surely a man whose enterprises have yielded him a profit will not commit a perjury to save a moderate tax. I feel as certain as I do of any event which is yet to come that the income tax will be paid as honestly and as promptly as other taxes are, and I repel as a libel on the American character this oft-repeated assertion that our prosperous people will perjure themselves to escape its payment.

Congressional Record. 44:2209. May 18, 1909.

Income Tax. Chauncey M. Depew.

Unless, as in war times, there is an absolute necessity for an income tax, it is the most direct possible attack upon the protective system. The only way in which the surplus revenues it would produce, and which are not now needed, could be taken care of, would be either a horizontal reduction of the tariff to bring the revenues down to the expenditures or else to enter upon a bacchanalian saturnalia of extravagance.

There is one point which strikes me in the question as to whether the fathers in forming the Constitution intended that the clause providing that direct taxes should be apportioned among the states according to population referred only to revenue from land and not income from personal property. The Constitution was a compromise between the large and populous and the small and sparsely populated states. The small states demanded that in some way they should be protected. The device to protect them was that, regardless of their population, each state should have in the Senate practically two ambassadors with equal vote and equal power. There was as great disparity then as there is now between the states of large population and those of smaller population. The taxing power and its destructive possibilities were thoroughly understood, and the great states of New York, Pennsylvania, Virginia, and Georgia never intended that they should be outvoted and made

to bear undue burdens because of the votes in the Senate of the smaller states. There are 15 states with 30 senators in this body whose aggregate population differs only a few thousand from that of the single state of New York with two senators. New York has one-seventh of the property of the country. It has one-twelfth of the population. Yet, under an income tax, it would pay 33 per cent of the burdens of the Government. It is absurd to suppose that with the states rights views that existed among the statesmen of the formative period and in the constitutional convention they ever intended that any system should prevail which would distribute so unequally the burdens of the Government among the various states.

There is another view which strikes me very forcibly and which has not been presented. The time has come to draw the line between the sources of revenue for the federal government and those which shall be left with the states. The federal government has unlimited opportunities for revenue through the customs and by internal-revenue taxation of almost limitless varieties and by other methods. The states must deal directly with their people. I was talking a few days since with the Hon. Edwin A. Merritt, chairman of the committee on ways and means of the lower house of the New York legislature, who expressed alarm at the inheritance and income taxes being absorbed by the federal government. The expenses of the states, with the public improvements which have become necessary by the extraordinary development of the last quarter of a century, are increasing in geometric ratio.

When I was chairman of the committee on ways and means in the lower house of the New York legislature, forty-six years ago, a tax levy of \$8,000,000 would have led to a political revolution. The tax levy this year is thirty-seven millions, and it has increased from twenty-two to thirty-seven within the last decade. There was levied in the state of New York in 1907 by direct taxes—that is, city, village, county, and town—\$180,942,341.27, and by indirect tax, \$32,339,707.49, making a total of direct and indirect taxes of \$213,282,048.76. A direct tax for state purposes has been abolished in our state. The state government is carried on by indirect taxation. This came be-

cause of the enormous burdens of local taxation, amounting to \$181,000,000 a year. Our indirect taxation comes from taxes on corporations, organization of corporations, inheritances, transfers of stock, traffic in liquor, mortgages, and racing associations, according to the following table:

Tax on corporations	\$8,581,223.44
Tax on organizations of corporations	391,423.18
Tax on inheritance	5,435,394.97
Tax on transfer of stock	5,575,986.64
Tax on traffic in liquor	9,697,504.24
Tax on mortgages	2,442,249.73
Tax on racing associations	215,925.29
Total	32,339,707.49

It is evident from this that, with the budget five millions more than the amount raised from these sources last year, the state must soon find other sources of revenue. Several states have already adopted an income tax. No one would advocate that there should be double taxation by the general government and by the states, for the burden would be intolerable. It seems to me, therefore, that it is a fair claim on behalf of the states that this direct contact with their citizens by inheritance and income taxes should be left to their administration.

Congressional Record. 44: 4524-5. July 12, 1909.

Income Tax. Richmond Pearson Hobson.

I believe that this measure is a wise movement in the direction of substituting direct taxation for indirect taxation. I realize that it is easier for governments to raise money by indirect taxation, and for that reason the governments of the world have adopted that system generally. It is more irksome to collect a direct tax, and sometimes it seems to work a hardship upon the people taxed; but I believe that a patriotic people who control their own government are willing to pay the just taxes needed for its support, when economically administered. A prime advantage of the direct method is that the people know when

they are being taxed. To-day I am sure that the great masses of the American people have not the slightest idea how many times in the day they are being taxed for all the comforts, conveniences, and necessities of life. If they were aware of the frequency, the magnitude, and scope of this taxation, they certainly would not submit to the greater part of it beyond one national election. If the people were fully informed on the taxation thereby imposed, they would not submit to such tariff schedules as have been in effect for many years and such as are now carried by the present bill.

Another prime advantage of a direct tax is that it enables a people to know how much they are being taxed, and only when they have such knowledge can they prevent abuse of the taxing power. To-day I do not believe our people have the slightest idea of the amount of taxation that is levied upon them. One, 2, 3 per cent is considered a sore burden, yet to-day our people are taxed 10, 20, even 30 per cent, and do not know it. Still a third prime advantage of a direct tax is that we know where the tax goes. In the present juncture the bulk of the taxation of the American people does not go to the government of the American people. I will illustrate: There are about 200,000 tons of pig iron imported into the United States in a year. The indirect tariff tax causes the government to get the impost duty from 200,000 tons. The country consumes about 25,000,000 tons, the price of all of which is raised to the extent of the tariff. The net result is that the pig-iron tariff gives the tax on 200,000 tons to the government and the tax on 24,800,000 tons to certain favored individuals, practically giving over to individuals the sovereign right of taxation that can only reside justly in the government itself. When the people are taxed, they ought to know who gets the tax, and they would know under a system of direct taxation. A fourth prime advantage of direct taxation is that it would be more adjustable to the legitimate needs of the government, and it would tend to a more economical and efficient administration of the government. When taxation is levied without a view to the needs of government, then at times there is liable to be a deficit in the national treasury, in which case the credit of the government may be shaken and panics

may result, as has been the case more than once in our country's history.

At other times there may be surplus, a surplus larger than necessary. Such a surplus being injurious to business, there is a tendency on the part of the government to reduce it by enlarging expenditures, leading to policies of extravagance.

I realize that the expenses of the government should naturally increase year by year with the growth of population and the work of government, but there have been increases in the expenditures of government in the last five or ten or fifteen years which are out of all proportion to such growth, due in large measure to the accumulation of the surplus under tariff laws.

I believe, Mr. Speaker, for these reasons that as a settled policy we should gradually work toward a substitution of direct taxation for indirect taxation in America. The result would be an enormous reduction in taxation, to the great relief of our people, in reducing the cost of living. We would know when we were being taxed, how much we were being taxed, who was being taxed. The government would then get the tax, and being held to stricter responsibility, the taxes would be adjusted to the needs of government which, held to stricter accountability would be more economically administered.

Congressional Record. 44:4685. July 19, 1909.

Income Tax. Edmund H. Hinshaw.

When the railroad rate bill was passed, much objection was made to the publicity feature contained therein; it would disclose trade and business secrets to rival lines. These gloomy anticipations were disappointed, and vast benefits have flowed from the publicity of accounts and methods. It tends to prevent frauds; it equalizes charges and prevents discriminations. If fully enforced, it will prevent the secret rebate. A like result will follow public disclosures of corporate affairs. The investing public will have some knowledge and some security. In

a similar manner, the enforcement of an income-tax law will tend to circumscribe the frauds and impositions on the public, which have been too frequent in our industrial history. As our manufacturing enterprises become more firmly established and the necessity for high protective customs duties becomes less urgent, the income tax will supply the revenues thus removed from importations.

Economic Journal. 2:637-52. December, 1892.

Position and Function of the Income Tax in the British Fiscal System. G. H. Blunden.

The income tax was not a product of theoretical economic science. Such support as it might be supposed to have derived from the teachings of Adam Smith would be referable chiefly to its larger measure of compliance with the first of the four fundamental maxims on taxation laid down in the "Wealth of Nations" than in the case of taxes on commodities. But, altho Adam Smith placed "equality" first in order of the desiderata of taxation he by no means gave it the first place in importance. On the contrary, he expressly states his opinion that "a very considerable degree of inequality is not near so great an evil as a very small degree of uncertainty." Speaking of a general income tax, he says:—"A year seldom passes away, frequently not a month, sometimes scarce a single day, in which it (the profit to be taxed) does not rise or fall more or less. An inquisition into every man's private circumstances, and an inquisition which, in order to accommodate the tax to them, watched all the fluctuations of his fortune, would be a source of such continual and endless vexation as no people could support." He shows that such a tax would violate the maxim in which he lays it down that "the tax which every individual is bound to pay ought to be certain and not arbitrary." Uncertainty he appeared to regard as the greatest of evils in taxation, as exposing the tax-payer to the extortion and insolence of the tax-gatherer, and favouring the corruption of the officials concerned

in the levying of the tax. Ricardo does not discuss the merits and demerits of a general tax on property and income; but, incidentally, he lets fall the observation that "the burdens of the state should be borne by all in proportion to their means," and elsewhere indicates rather loosely that he uses the word "means" in the sense of revenue or income. McCulloch, writing soon after the revival of the income tax by Peel, combats the view that equality of taxation is of primary importance. He contends that "the *salus populi* is in this, as it should be in every similar matter, the prime consideration; and the tax which is best fitted to promote, or least opposed to, this great end, though it may not press quite equally on the different orders of society, is to be preferred to a more equal but otherwise less advantageous tax." He cites as examples the taxes on malt (beer), spirits, wine, and tobacco, which he considers superior to any practicable form of *direct* taxation, notwithstanding that the principle of equality might be more fully embodied in the latter. He concludes an exhaustive review of the subject by declaring his opinion that a really equal tax on property and income "is a desideratum which is not destined ever to be supplied." He rejects the existing tax, and will only allow the fitness of such a fiscal expedient for periods "when money must be had at all hazards; when the ordinary and less exceptionable means of filling the public coffers have been tried and exhausted; and when national independence must be secured at whatever cost."

Mill, after analysing the term "equality of taxation" and showing it to mean "equality of sacrifice," or such an apportionment of the expense of government as will cause "each person neither more nor less inconvenience from his share of the payment than every other person experiences from his," describes this as a standard of perfection not attainable in practice.

Dealing with the existing property and income tax, he points out the impossibility of obtaining uniformly fair returns from, or of accurately estimating the profits of, traders and professional men, and the inevitable result that the scrupulous are taxed to the full, whilst the unscrupulous largely escape the payment of their due share. He sums up as follows:—"It is to be feared, therefore, that the fairness which belongs to the principle of an

income tax cannot be made to attach to it in practice: and that this tax, while apparently the most just of all modes of raising a revenue, is in effect more unjust than many others which are *primâ facie* more objectionable. This consideration would lead us to concur in the opinion which, until of late, has usually prevailed—that direct taxes on income should be reserved as an extraordinary resource for great national emergencies, in which the necessity of a large additional revenue overrules all objections.”

Having shown that the income tax was not a product of theoretic economic science, and that its continued existence is not due to any support derived from a supposed embodiment of the principle of equality, it will be well to explain, somewhat more minutely, the reasons for its retention in spite of its undoubted unpopularity, and the causes which still combine to make the tax obnoxious, notwithstanding that repeated efforts have been made to reform it and to eradicate abuses of administration. The great merits of the tax are its productiveness and its expansiveness. The estimated yield for the present financial year (1892-93) at the rate of sixpence in the £ is £13,400,000, or £2,233,000 for each penny. Large as this sum is, the rate could, upon adequate occasion, be multiplied threefold or even fourfold without any great loss of relative productiveness, and without the dislocation of any portion of the trade or commerce of the nation. A further great merit in the tax is the promptitude with which its machinery can be brought into operation, the flow of funds in response to an increase of the rate beginning almost at once, and the full addition for the year being brought into account within from nine to fifteen months according to the period of the year at which the increased rate is decided upon. There is, also, an entire freedom from the complications which arise from changes of rate in connection with taxes on commodities, and which, besides causing loss to the trader, sometimes involve the allowance of time for the disposal of stock or the payment of drawback on unsold stocks. These are merits which distinguish the income tax above all other taxes as a fiscal resource for great emergencies, when, as Mill observes, the necessity for an additional revenue overrules all objections.

It now remains to examine the chief grounds of objection to the income tax in its present form.

The fact that widespread evasion is practised by persons of all degrees of fortune in those categories where dependence has of necessity to be placed upon the taxpayers' own returns, is attested by the numerous detections effected every year, and by the "conscience-money" remitted by a remorseful fraction of the undetected defrauders of the revenue to the Chancellor of the Exchequer. The only check on such evasion which is really operative is the power of arbitrary assessment possessed by the commissioners charged with the thankless duty of revising the taxpayer's returns. Penalties have been found to inspire but little respect for the income tax law, and prosecutions for their imposition are for various reasons seldom resorted to. But the power of rejecting returns is one which, however carefully exercised, is bound to inflict injustice and hardship in a large proportion of the cases to which it is applied. Many persons prefer to bear the injustice of an over-assessment rather than expose the state of their affairs. Some fear damage to their credit, and distrust the secrecy of the proceedings. Others dread the ordeal of examination which they and their accounts must undergo, even in the prosecution of a successful appeal. But the greater number of the sufferers do not keep their accounts in such good order as would admit of their preparing a three-years' summary at short notice. Many retail cash traders of the smaller sort keep no accounts at all; but, when smarting under a sense of the injustice of what they believe to be, and what may be, an over-charge, their resentment is rarely subdued by any consciousness of blameworthiness on this score. Even those who appeal successfully are frequently and not unnaturally annoyed by the unmerited distrust of their returns, and by the trouble to which they have been put to vindicate their veracity. But so very invidious a power can never be exercised with sufficient freedom to make it completely effectual, and is naturally sparingly applied to the returns of persons and firms of good standing commercially and socially. Yet these are sometimes the greatest sinners, and the pleas put forward by them in extenuation of detected frauds show that a special code of morality obtains, in relation to income tax, amongst men whose probity in other matters is beyond dispute.

This part of the case is admirably summarised by Mill, who remarks that "the variable gains of professions, and still more the profits of business, which the person interested cannot always himself exactly ascertain, can still less be estimated with any approach to fairness by a tax-collector. The main reliance must always be placed, and always has been placed, on the returns made by the person himself. No production of accounts is of much avail except against the more flagrant cases of falsehood; and even against these the check is very imperfect, for if fraud is intended, false accounts can generally be framed which it will baffle any means of inquiry possessed by the revenue officers to detect—the easy resource of omitting entries on the credit side being often sufficient without the aid of fictitious debts or disbursements. The tax therefore, on whatever principle of equality it may be imposed, is in practice unequal in one of the worst ways, falling heaviest on the most conscientious. The unscrupulous succeed in evading a great proportion of what they should pay. Even persons of integrity in their ordinary transactions are tempted to palter with their consciences—at least to the extent of deciding in their own favour all points on which the smallest doubt or discussion could arise; while the strictly veracious may be made to pay more than the state intended, by the powers of arbitrary assessment necessarily entrusted to the commissioners as the last defence against the taxpayer's power of concealment."

Turning from the objections to the income tax arising out of the methods of procedure necessarily pursued in assessing certain classes of incomes, to those due to primary defects of structure, we are at once confronted with an old grievance arising out of the imposition of an equal tax on temporary and precarious and on permanent incomes. Mill allows the soundness of this objection, and, whilst recognising the impossibility of effecting an accurate adjustment, suggests that the taxation of the former should be one-fourth less heavy than that of the latter class, "it being thus assumed that one-fourth of a life-income is, on the average of all ages and states of health, a suitable proportion to be laid by as a provision for successors and for old age." In pursuance of this distinction he divides the profits of a trader into two parts,

one permanent, and the other terminable and precarious. A committee of the House of Commons was appointed in 1861, at the suggestion of Mr. Hubbard, who presided over its deliberations, mainly to investigate the grounds of this objection, and to consider the best means of rendering the tax more equitable. The committee, however, reported adversely upon the proposals submitted by its chairman, and, indeed, expressed the opinion that "the objections urged against it (i. e. the tax) are objections to its nature and essence rather than to the particular shape which has been given to it." They proceeded, in the next paragraph, to formulate the plea which has since sufficed to obstruct all efforts to secure reform in this direction, as follows:—"Your committee also feel that it would be unjust to make any alteration in the present incidence of the income tax without, at the same time, taking into consideration the pressure of other taxation upon the various interests of the country." This plea has also been successfully used to obstruct the removal of the injustice (previously alluded to) resulting from the non-allowance of the cost of repairs and insurance of property charged under schedule A, and a similar one in the case of the succession duty; and thus one abuse is made the excuse for others, and a vicious circle is established. Without suggesting that any satisfactory mode of remedying the main defects of the income tax has yet been devised, it is obviously good policy from all points of view, to encourage inquiry and discussion having for their object the improvement of the tax, without waiting for some far-off reform of the entire fiscal system.

Economic Journal. 4: 639-67. December, 1894.

American Income Tax. Edwin R. A. Seligman.

One of the arguments most commonly advanced by the opponents of the measure was the alleged socialistic character of the tax. To assess people upon their income was said to savour of socialism. The more violent enemies of the measure went so far as to maintain that the state has no right to confiscate any

part of a man's earnings at all. This objection, indeed, scarcely deserves a refutation, for it entirely misconceives the relation of the individual to the state. The cry of socialism has always been the last refuge of those who wish to clog the wheels of social progress, or to prevent the abolition of long-continued abuses. The factory laws were in their time dubbed socialistic. Compulsory education and the post office were called socialistic. And there is scarcely a single direct tax which has ever been introduced which has not somewhere or other met with the same objection. Only a short time ago the new inheritance tax was vehemently opposed in some of the American commonwealths, as was the new estate duty in England, on the ground of socialism. The same fate befell the property tax before its recent introduction in Holland and Germany. As a matter of fact, if there is any socialism to be recognized at all in these measures, it would be far more true of the property tax, which entirely exempts all earnings of the lower classes in so far as they are again expended, than of the income tax which reaches earnings from other sources than mere property. The property tax hits only the property owner. The income tax, as such, hits the income receiver whether the income be derived from property or not. Yet the Americans have become so accustomed to the property tax that they would laugh at the idea of its being called socialistic. We do not here speak of the exemption feature to be discussed below. For the cry of socialism was raised against the income tax *per se*, while the high exemption serves as an additional count against the tax.

Had the principle of progressive taxation been introduced, some colour might have been lent to the accusation. The populists, indeed, introduced several amendments with this end in view; but they were all defeated in order to allay possible opposition. As a matter of fact, however, recent investigations have shown that progressive taxation, which to some seems the very quintessence of socialism, and which has undoubtedly often been urged for socialistic reasons, is perfectly defensible in theory on purely economic and fiscal grounds, although for other reasons its application to the income tax in its present form is practically inexpedient. It must be remembered that the income taxes

of the Civil War period were levied on the progressive principle, and were defended on purely economic grounds, both by the administration and by the legislators. England has not hesitated to introduce within the last few months a progressive direct inheritance tax ranging from one to eight per cent. And the great extension given to the progressive principle in recent years in other countries shows that the legislators are not blinded by mere words. As it was, Congress did not attempt any graduation of the tax, except in so far as the \$4,000 exemption provides for a sort of restricted progression. The cry of socialism had no weight.

A still weaker objection was the alleged un-American nature of the tax. A prominent senator loved to expatiate upon the evils of monarchic government and the tyranny of the effete civilisations of the old world. Had he been better acquainted with the science of finance tax he would not have ventured the startling assertion that the income tax is unknown in democratic communities. We may perhaps assume that he regards England as a hide-bound, mediaeval country. But it would be interesting to ascertain what epithets he applies to the cantons of Switzerland or to the colonies of Australasia. Of course it is a well-established fact that the income tax has been most fully developed precisely in the most democratic communities; and that the whole tendency toward democracy, even in non-republican states, has gone hand in hand with the extension of direct taxation, and more especially of the income tax. Had this absurd objection not been so widely quoted and copied, it would not deserve mention here.

The third objection was that of unconstitutionality. The American Constitution provides that direct taxes must be laid in proportion to the representative population in each state. This would manifestly render it impossible to levy a tax on incomes. For the number of people in the state does not, of course, bear any necessary relation to its wealth. An income tax assessed according to the principle of the Constitution would give a decided relief to the industrial states at the expense of the agricultural states. It would have to be levied in a lump sum upon each state according to population, and then be ratably distributed

among the tax-payers. The rate in one state would thus greatly vary from that in other states. If the income tax is a direct tax, the objection seems to be a formidable one.

As a matter of fact, however, it is not quite so serious. Even among economists there is not absolute agreement as to the exact distinction between direct and indirect taxes. And there is no doubt that in discussing the constitutionality of such a measure we must consider what the framers of the Constitution meant when they used the term. | Now, at the time the Constitution was discussed there were no direct income taxes in existence, if we except the 'faculty' tax in Massachusetts, and the disastrous French experiment of the *Vingtièmes*, both of which were regarded rather as adjuncts of the property tax than as distinct forms of taxation. For the income tax, as we know, is a product of the last hundred years. The Supreme Court of the United States is thus undoubtedly correct in assuming that the only direct taxes contemplated by the Constitution were the poll tax and the general property tax, chiefly the land tax. The question arose soon after the formation of the government. In a leading case the federal tax on carriages was upheld as not being a direct tax within the purview of the constitution. Later on, during the civil war, the same question arose in regard to the income tax. And here again the Supreme Court held in a number of cases that the income tax was not a direct tax within the meaning of the Constitution.

The fifth and final objection that has been urged is the old but ever new contention that the income tax, however wise in theory, works badly in practice. That there is considerable truth in this is not to be denied. But it is usually forgotten that in dealing with problems of this character the real inquiry is not what is absolutely good, but what is relatively best. In so far as the objection is true, it will be found to be due in great part to certain provisions of the law which, as we shall see, might have been avoided. But the objection itself has been made too much of. It is undoubtedly true that the income taxes in the separate states of the Union, like Massachusetts, Virginia, and North Carolina, are almost entirely farcical. But this is owing solely to the fact that no earnest effort is made to execute the

law. Where, however, there is a serious administration, as was the case with the federal income taxes during the Civil War, the result is very different. It is commonly assumed that the Civil War income tax was in many respects a great failure and was provocative of great frauds. But it has never occurred to any one to compare the federal income tax with the local property taxes. I have undertaken to make some comparison, and venture to say that the history of the federal income tax shows that, notwithstanding all its imperfections, crudities and ensuing frauds, it was nevertheless more successful than the general property tax.

Let us test this by taking its fortunes in a typical state, utilising the returns of the state comptroller as well as of the federal officials.

The special income tax of 1865 was levied at the rate of 5 per cent. on all incomes. Its yield in New York state was \$8,765,913, which corresponds to an income of \$175,318,260. The state assessment for the general property tax in that year disclosed property to the amount of \$1,550,879,685. That is, the self-assessed incomes in New York amounted to over 11 per cent. of the property—a preposterously high figure. If we assume that the average rate of profit at that time was 7 per cent., the income on New York property should have been \$108,561,578. Yet this was not two-thirds of the income actually assessed. The income tax yielded one-third as much again as a corresponding property tax. Of course some allowance should be made for incomes from other sources than property. But the exemption of \$600 included almost all the working classes; and the profits from business are practically the income from property invested in the business. So that the only class for which an allowance must be made is that of receivers of professional incomes. The total income of this class is not large enough to make any material difference in the figures given. The great success of the income tax as compared with the local property tax was due in part to the fact of the low valuation of real estate. But its main cause was the failure of the state tax to reach personalty. In other words the federal income tax was able to reach many of those who contrived to escape the personal property tax.

The other years disclose a similar state of affairs. In 1866-67 the income tax in New York yielded \$18,448,664. It was levied at the rate of 5 per cent. and 10 per cent. Taking this as approximately equivalent to a uniform tax of about $7\frac{1}{2}$ per cent., the result would be a real income of \$245,982,187. But let us grant, in order to weaken the contention still further, that it was tantamount to a uniform tax of as much as 9 per cent. on all incomes. That would mean an income of only 205 millions. The property assessed in New York by the state officials is returned at \$1,531,229,636. Even assuming that the rate of income on capital was as high as 7 per cent., we would have an income of \$107,186,074. Yet the income actually returned exceeded this by nearly 100 millions. Even under the least favourable showing incomes appeared as more than 13 per cent. of property—a figure manifestly extravagant. The income tax, therefore, produced almost twice as much as the general property tax. And even if we make the same allowance as before for incomes, derived from other sources than property, the disproportion would still be very considerable.

Even in 1870, when the limit of exemption had been increased so much as materially to reduce the returns, New York paid \$10,420,035, as a 5 per cent. income tax. This corresponds to a taxable income of \$208,400,700. The assessment of property for the state tax was \$1,967,001,185. This would mean that incomes were 11 per cent. of property, which for that period is palpably far too high.

In short, the history of the income tax clearly shows that it was more lucrative than a corresponding property tax, and that it succeeded in many cases where the personal property tax failed. The income tax was indeed productive of great frauds, but the personal property tax created far more. It was precisely because the income tax reached so many of the mercantile and capitalistic classes who have both previously and since escaped taxation that it became unpopular and was abolished.

After all has been said, however, it remains true that too much must not be hoped from the practical working of the income tax. A system which rests on a method of self-assessment manifestly opens wide the door to fraud and evasion. The provision for

supplementary revision of the returns in certain cases by official assessments are far from adequate. The methods of checking the returns by utilising the probate courts and the inventories of property after death, which are customary in Germany and even in democratic Switzerland, would not be possible as yet in America. And although much of the inquisitorial character of the former income tax has been removed by the stringent provisions in the new law calculated to insure the utmost secrecy, there can be very little doubt that the effort to secure correct returns of individual incomes will be far from successful.

The second objection is one to which attention has already been called in another connection, viz. the \$4,000 exemption. It is true that what is known as the exemption of the minimum of subsistence has become a cardinal demand in the theory of taxation. Some writers have indeed attempted to prove that this is dangerous in a democracy. It is wrong, so it is said, in a country of universal suffrage to have the burdens imposed on one class and the expenditures voted by another class, thus virtually putting the control of the public moneys in the hands of those, the majority of whom have nothing at stake. Without entering into the general argument in this place, it may be said that as a matter of fact the property tax, hitherto almost the sole reliance of the United States in state and local taxation, in itself necessarily includes this exemption of the minimum of subsistence. Yet the particular evil spoken of has never made itself apparent. But even were this not so, the obvious answer is that unless the state exempts this minimum of subsistence it must make good the difference through its poor laws. If it trenches on the minimum with one hand, it must build it up again with the other.

It is one thing however, to recognise the justice of the principle in the abstract, and quite another thing to defend the particular shape given to it by the new law. He would be bold indeed who would say that a \$4,000 income constitutes a minimum of subsistence. When capitalised at the current rate of interest it is equivalent to a property of from \$80,000 to over \$100,000. This is not a minimum, but a very comfortable subsistence. Under the former income tax laws, when the exemption was \$600, the total number of taxpayers in 1866 was 460,170. With an ex-

emption raised to \$1,000 the number of taxpayers in 1867 was reduced to 240,134. When the exemption was finally reduced to \$2,000 the total number of taxpayers in 1872 was only 72,949. Even making allowance for the increase of wealth, and population during the last quarter of a century, it is manifest that the number of individual taxpayers under the new law will be exceedingly small. Regarded from the standpoint of revenue, Congress has therefore voluntarily abandoned a rich source.

It must, indeed, not be forgotten that we should look at the income tax, not by itself, but as a branch of the whole revenue system. Much may accordingly be said in mitigation of this seeming injustice. As we pointed out above, the burden of taxation, that is, of the tariff and the local property tax, is borne primarily by the lower middle class, more especially by the farmers. Even though \$4,000 be not a minimum of subsistence, it nevertheless represents in large part the income of a class which is on the whole unfairly treated at present. Moreover it must be remembered that in England the limit of abatement has recently been raised to five hundred pounds, which, in view of the different purchasing power of money, is not much inferior to the new American limit. Nevertheless, it is probably true that the limit has been fixed too high; for already under the property tax people who earn and spend their own incomes are entirely exempt. In addition, a definite amount of property over and above the annual earnings is also exempt; so that the present law grants still another exemption. An effort was in fact made to reduce the limit of exemption to \$3,000. It would without much doubt have succeeded but for an unfortunate difference, partly political, partly personal, between an individual senator and the remaining members of the dominant party. While therefore something may be said in explanation, and even in palliation, of the provision, we are forced to the conclusion that the \$4,000 exemption is too high, and that it will seriously interfere not only with the fiscal success of the measure, but also with the popularity of the tax among those who think that they are being unduly burdened in order to free an entire class that is well able to contribute something.

Economic Journal. 11: 481-91. December, 1901.

Theory of Progressive Taxation. G. Cassel.

Those who have wished to deduce progressive taxation from the equal sacrifice principle, have generally tried to lay stress on the fact that £1 is a greater sacrifice for a person who has an income of £100, than £10 for one who has an income of £1,000. Fully valid reasons can be brought forward for this statement. If £1 be taken from a family which has an income of £100, this family will be deprived of its means of purchasing very important necessities. But if an income of £1,000 is diminished by £10, then it means as a rule only a sacrifice of very insignificant luxuries. The validity of this reasoning is most evident if one brings into the comparison an income which lies on the very margin of what is absolutely necessary for subsistence. A tax of 1 per cent. is for such an income not only very much heavier than a corresponding tax on a larger income, but the sacrifices which are necessary in such a case are, as Mill says, quite incommensurable. Like Bentham, Mill derives from this the necessity of a tax-free minimum of subsistence, and with quite logical consistency, he concludes that this minimum shall be deducted from *all* incomes, so that only those sums are to be taxed by which the different incomes exceed the minimum of subsistence. It is curious that political economists have not yet been able to agree about a thing which seems so evident from a logical point of view, and which would besides afford such great facilities from a purely technical aspect.

Mill refuses to make any further concessions to the defenders of the progressive taxation. That a tax of the same percentage for large and small incomes (the existence-minimum having been deducted from all of them) would cause the lower incomes a greater sacrifice, seems to Mill "too disputable altogether, and even if true at all, not true to a sufficient extent, to be made the foundation of any rule of taxation." And, in fact, these questions, as they are generally brought forward, are certainly too indefinite to serve as the foundation of any scientific discussion.

But it seems to me that the analysis can be carried out in a

more profound and consistent manner on the line that Mill has indicated. The reason for making a deduction is that a tax which interferes with the necessities of some classes of society cannot fulfil the conditions of "the equal sacrifice." But it is quite impossible to state any fixed sum which would always correspond to these necessities. On the contrary it is certain that the necessities of life of the higher classes of society are on the average considerably greater than those of the lower classes. If one once grants that a tax which is to produce an equal sacrifice must not take away any of those means which are needed to cover essential wants, then for the sake of consistency the deductions must be made greater for the higher classes of society. It is simply impossible for a professional man to live as cheaply as a common miner. He has outlays for books, paper and correspondence, and if he has a family he cannot live and work in only one room. He cannot, in one word, discharge his function in society, and, economically speaking, continue to exist as the same person, if he is reduced to a standard that can be considered as a fair minimum for a common labourer. Such a reduction means, therefore, to him a sacrifice of much the same nature as that of the labourer deprived of a certain part of the necessities for physical existence. Then the professional man, deprived of the possibility of carrying on his profession, will probably not be able to earn anything in a lower grade of work. For some expenses of the kind mentioned above tax-legislation can grant direct deduction; as, for instance, for an artisan's shop-rent or other business expenses. But a number of expenses remain, nevertheless, which are so nearly connected with the personal consumption of the taxpayer, that there can be no question of deducting them as expenses. There is thus no other course open than to confess the simple truth, that the necessities of life are actually, in the present state of society, more numerous for the higher classes. To make this statement more definite we can say that the income which is necessary for a person's economical existence increases on an average with the total real income, but naturally more slowly than this. In fact there would probably be no one, of whatever class or party, who would deny this truth if he were to judge it by itself. But if that is the case one could expect that it would be

recognized also in the theory of taxation, quite independently of the consequences to which it might lead.

We are, however, not yet so free from prejudice. The reason why most people are unwilling to grant tax-free deductions to the higher incomes, is probably the widely spread belief that the higher classes would necessarily be specially favoured thereby. But a closer examination proves that this supposition is quite false. If the untaxed deduction increases more slowly than the income, then clearly the remainder increases more rapidly than the income. A proportional tax levied on the remainder is then a *progressive* tax on the total income. Moreover, as we shall see presently, it is possible, by allowing such deductions and taxing the remainders at a constant rate, to obtain as strong a progression as we please.

To recapitulate: The principle of equal sacrifice leads us to deduct from all incomes certain necessities and to tax the remainders at a constant percentage. These necessities are not the necessities of merely physical subsistence; but are, to use the language of Prof. Marshall, "*the necessities of efficiency.*" Then as soon as taxation would interfere with the efficiency of any special class of the community, the sacrifice of this class would be, in Mill's terms, quite incommensurable with that of the other classes, taxed only out of their surplus income above the margin of efficiency. Thus "*equal sacrifice*" means *deduction of the necessities of efficiency and a proportional tax on the remainders.*

The question how to construct an income-tax, meant to produce an equal sacrifice, is thus reduced to the problem: What are the average necessities of efficiency in the different grades of income? We know already that these necessities *increase* with the incomes, but more slowly, and, consequently, that we, by deducting them and taxing the remainders at a uniform rate, will arrive at a *progressive tax*.

Fortnightly Review. 87:807-17. May, 1907.

Income Tax. Benjamin Taylor.

The broad argument in favour of graduation is that it is a desirable and convenient method of reducing in some degree the

inequalities of wealth. Equality of sacrifice is the proper economic basis of taxation, but that is not to be measured by equality of contribution. It is contended that at present large incomes pay less in proportion in taxation than do small incomes, but this argument overlooks the incidence of the death duties. If the burden of indirect taxation does, as is alleged, fall more heavily upon the poorer man in proportion to his income, then it is just that he should have some relief in the burden of direct taxation. If the income tax is no longer to be regarded as an emergency tax, but as a permanent tax (which it has practically become, and which the select committee assume it to be), then the question of graduation attains a form and importance that it has not had in the past. It is now a new principle in our system of taxation. We have it in the house duty and in the death duties; we have it, indeed, already in the income tax, in the form of exemptions and abatements. We graduate when we exempt all incomes below £160. We graduate when we allow abatements on all incomes between £160 and £700. There should be no exemption above a line necessary to cover the bare cost of living, and £160 is too high for that. And if it is right to discriminate on incomes under £700, it is also right to discriminate on incomes above that figure. But if there were no exemptions and no abatements there need be no discrimination, for the total yield would be increased from a greatly reduced rate per pound.

According to the special report from the British embassy on the income tax system in Prussia, under the present law, all persons with incomes of over £150 a year have to send in an annual declaration of their full income, divided according to the four main sources—capital, landed property, trade and industrial employment bringing gain. This includes the salaries or wages of workmen, servants and industrial assistants, military persons and officials; also the receipts of authors, artists, scientists, teachers and tutors. One of the main principles underlying the Prussian income tax law is the taxation according to capacity, and for this purpose a regular system of progressive taxation has been adopted. The normal rate is 3 per cent. of the income, but falls for incomes under £500, and rises for incomes over £1,500, up to 4 per cent. for those over £5,000. Persons liable to taxation, with

an income of not more than £150, may deduct from that income £2 10s. for every member of their family under fourteen years of age who is not assessed independently. If three or more such members exist in a family, an abatement by at least one stage of the scale of taxation is allowed. As taxation only begins with an income of £45, a man with an income of, say £49, who has two children under fourteen years of age would be exempt. As a result of this provision, in 1899, out of 2,701,209 persons assessed at incomes up to £150, 240,103 were exempted entirely, and more than a third paid a lower rate. Abatement is allowed to taxpayers with incomes up to £475 whose solvency has been unfavourably affected by adverse economic circumstances.

In 1903 (the latest year covered by the report) the total yield of income tax in Prussia was £8,569,402 from 3,895,184 individuals. Of that total £2,531,399 was contributed by taxpayers whose incomes were between £45 and £150, incomes which are wholly exempt in this country. The taxation worked out at 14s. 8d. per taxpayer, or 1s. 5d. per head of population, on incomes under £150 and £13 per taxpayer, or 3s. 5d. per head of population on incomes over £150.

Besides income from interest and dividends from investments, income from landed property, income from trade and industry, inclusive of mining, the tax is levied on income from occupations bringing profit and from rights to periodical allowances, &c. Income from occupations bringing profit, as also from rights to periodical allowances and benefits of all kinds, includes the earnings of workmen, servants, and industrial assistants, the salaries of military persons and officials of every kind; the profits from literary, artistic, scientific, teaching, or educational work, also half-pay pensions, and other continuous receipts which can not be regarded as the annual proceeds of movable or immovable property; and such receipts as are attached to the person of their receiver. The income from official apartments is assessed according to the local renting value, but not higher than 15 per cent. of the actual salary of the person entitled to them. In the case of military persons, imperial officials, state officials, clergymen, and teachers, that part of their official income which is intended to meet their official expenses is exempted.

The following are the Prussian rates of taxation. The income tax amounts annually, in cases of income of:—

More than	Up to inclusively	To	More than	Up to inclusively	To
£ s.	£ s.	£ s.	£ s.	£ s.	£ s.
45 0	52 10	6	195 0	210 0	4 12
52 10	60 0	9	210 0	225 0	5 4
60 0	67 10	12	225 0	250 0	5 18
67 10	75 0	16	250 0	275 0	6 12
75 0	82 10	1 1	275 0	300 0	7 6
82 10	90 0	1 6	300 0	325 0	8 0
90 0	105 0	1 11	325 0	350 0	8 16
105 0	120 0	1 16	350 0	375 0	9 12
120 0	135 0	2 4	375 0	400 0	10 12
135 0	150 0	2 12	400 0	425 0	11 12
150 0	165 0	3 0	425 0	450 0	12 12
165 0	180 0	3 10	450 0	475 0	13 16
180 0	195 0	4 0	475 0	525 0	15 0

It rises in the case of incomes of:—

More than	Up to inclusively	For every	By
£	£	£	£ s.
525	1,525	50	1 10
1,525	1,600	75	3 0
1,600	3,900	100	4 0
3,900	5,000	100	5 0

In cases of incomes of more than £5,000 up to £5,250 the tax amounts to £200, and rises in cases of still higher incomes of £10 for every £250. For every member of a family under fourteen years of age, whose income is not to be assessed independently, the sum of £2 10s. is to be deducted from the taxable income of the head of the family, if this does not exceed £150, and in the event of three or more such members of a family existing, an abatement by at least one stage of the scale is to be allowed. At the assessment it is permissible to consider special economical circumstances prejudicing the solvency of the taxpayer in such a

manner that in cases of incomes not exceeding £475 an abatement of the rates is allowed. As circumstances of this nature, extraordinary obligations on account of maintaining and educating children, maintaining poor relations, continuous illness, debts, and special misfortune only may be considered.

In Saxony a graduated income tax is levied on all incomes of £20 a year and upwards. Fixed salaries and wages are taxed on the amount being earned at the date of making the return, though, should an advance be received between that date and the date of closing of the register (in December) a supplementary declaration of that advance is necessary. Where a fixed wage is supplemented by a bonus it is necessary to return the sum actually received in this way during the past year. Where a fixed wage-earner has extraneous sources of income, as, for example, an official by doing some copying work, or giving private writing or drawing lessons, he has to take into account not only what he has received during the past but what he may expect to receive during the coming year. The income of a domestic servant is considered to consist not only of his or her wages, but also of what it is estimated that his or her board and lodging are worth. Waiters and tramway conductors, who are accustomed to receive gratuities, have to submit an estimate of what these may bring in during the year. Even free seats allotted in theaters and concert halls to dramatic and musical critics are held to constitute a basis of taxable income, as affording "free amusement," for which allowance would otherwise have to be made.

In the Duchy of Baden, with regard to earned and unearned incomes, no difference is made in the income tax itself; but unearned incomes (those derived from dividends, rents, &c.) are more heavily weighted than earned incomes (those from personal exertion), in that there exist in the Grand Duchy various taxes, such as a tax on invested capital which is analogous to an *Ergänzungssteuer*, and land, house, and industry taxes, which do not affect the latter class of incomes while weighing on the former. In certain instances the tax is levied at the source, *i. e.*, on the salaries before they are paid. This is the case with minor state officials and the workpeople of large contractors, who are bound under their own recognisances to pay the income tax on the wages of their employees.

The system of graduation in Holland may be thus summarised from the report published by the foregin office in 1905:—The *property tax*, though meant as part of an income tax, is calculated not from the income itself, but from the property, the fiction being adopted that the normal yield of income out of property is 4 per cent. The rate of the tax is 1.25 florins for every 1,000 florins of property after deduction of 10,000 florins. If, however, the whole estate exceeds 200,000 florins, the *excess* is taxed at the rate of two florins for every 1,000 florins. (The sum of 237.5 florins mentioned in the report as the tax on 200,000 florins is thus arrived at: 200,000 florins abated 10,000 florins, or 190,000 florins net, at 1.25 per 1,000=237.5 florins.) There are, in the case of small properties, some deviations from the strict application of the rule. Exemption reaches to 13,000 florins instead of 10,000 florins, and the tax on 13,000 florins and 14,000 florins is slightly decreased, but from 15,000 florins onwards the system is applied without variation. The *professional income tax* is two florins for every 100 florins after deduction of 800 florins. If, however, the income exceeds 8,200 florins, the *excess* is taxed at the rate of 3.2 florins for every 100 florins. For incomes below 1,500 florins there is a deviation from this principle, the lowest income taxed being 650 florins which pays one florin (whereas properly 850 florins should pay one florin), and all incomes between 650 florins and 1,500 florins pay somewhat more than the sum to which they would be liable under the strict application of the rule. Incomes above 1,500 florins are taxed according to the rule without variation. A special arrangement is made for vested incomes derived in part from property and in part from labour. Thus, if the estate exceeds 200,000 florins in value the whole income out of labour is taxed at the highest rate, 3.2 per cent., after deduction of 200 florins only; if the estate is less than 200,000 florins the income out of labour, after deduction of 400 florins, is taxed at 2 per cent. in so far as, added to the income out of property (at 4 per cent.), it does not exceed 8,200 florins, the excess above 8,200 florins being taxed at 3.2 per cent. In these cases also there are some minor deviations from the strict progression affecting cases where the income (both from property and labour) is small.

Forum. 17: 1-13. March, 1894.

Income Tax: Is It Desirable? David Ames Wells.

An income tax is the very essence of personal taxation. Notwithstanding the decision of the Supreme Court of the United States that it is not a direct tax, it comes to the taxpayer most directly; and this is the first reason why human nature does not like it. The world's experience is to the same effect in respect to a "poll" or "head" tax. This is acknowledged to be a direct tax, and altogether personal in its incidence. It has accordingly always been most unpopular. Its collection has been the occasion of great civil disturbances in the world's history, and it has been denied a place, by popular vote or constitutional provision, in the tax system of twenty states of the federal union.

A second and more important reason why a general income tax powerfully antagonizes popular sentiment is, that its efficient administration, or revenue productiveness, requires that every person liable to taxation in respect to his annual net gains, profits, or income shall make a government official an exhibit of the financial condition of his estate, business, or profession; for, in default of such an exhibit, any basis for assessment must be a mere matter of conjecture on the part of the assessor, with a result devoid of any pretence to correctness or equality. But such an exhibit, necessarily disclosing to a greater or less degree his financial condition to his business competitors and to a curious, gossiping public, no man will willingly make; and he naturally regards it as in the nature of an outrage on the part of a government that seeks to compel him to do it. Hence the successful administration of an income tax involves and requires the use of arbitrary and inquisitorial methods and agencies which, perfectly consistent with a despotism, are entirely antagonistic to and incompatible with the principles and maintenance of a free government.

In support of this assertion attention is asked to the following historical evidence. It is well known that one of the principal causes which led to the great French Revolution was the inequality (class-exemptions) and multiplicity of taxes, and one of the

first acts of the national assembly of 1789 was to repeal all inquisitorial and arbitrary taxes of every name and character; and this repeal was based on the report of a committee composed of some of the most eminent members of the convention,—La Rochefoucauld and Talleyrand being of the number,—which commenced with the following proposition: "Every system of taxation which necessitates personal and arbitrary inquisitions for its execution is inconsistent with the maintenance of a free people." And from that day to this, France has never sanctioned any system of taxation inconsistent with this principle, although at the present time, by reason of a national debt greater than was ever borne by any other nation, the government of France has felt compelled to resort to almost every other method for obtaining revenue.

Again, Alexander Hamilton, who was a member of the conventions that framed the constitution of the United States, as well as the first constitution of the state of New York, in discussing this subject (in the "Constitutionalist"), also expressed himself as follows:

"The genius of liberty reprobates everything arbitrary or discretionary in taxation. It exacts that every man, by a definite and general rule, should know what proportion of his property the state demands. Whatever liberty we now boast in theory, it cannot exist in fact while (arbitrary) assessments continue."

The United States Supreme Court, in the case of *Boyd v. United States* (116 U. S. Rep., 631, 632), has also expressed itself as follows:

"Any compulsory discovery, by extorting the party's oath or compelling the production of his private books and papers to convict him of a crime or to forfeit his property, is contrary to the principles of a free government. It is abhorrent to the instincts of an Englishman. It is abhorrent to the instincts of an American. It may suit the purposes of despotic power, but it cannot abide the pure atmosphere of political liberty and personal freedom."

So much for what may be termed the philosophy of an income tax. Consideration of some of its most instructive experiences is next in order.

The old Romans, who never gave much place to sentiment in their laws or policy, had an income tax in the earlier days of the Empire, and they overcame all difficulties connected with its administration in the following manner. They authorized their tax officials, in cases where the citizen did not in their opinion make

a satisfactory payment, or was suspected of false statements in respect to his income or property, to administer torture; and the historian Gibbon, in writing about this feature of Roman history, justifies it in a measure in the following language:

"The secret wealth of commerce, and the precarious profits of art and labor, are susceptible only of a discretionary valuation; and as the person of the trader supplies the want of a visible and permanent security, the payment of the imposition, which in the case of a land tax may be obtained by the seizure of property, can rarely be extorted by any other means than corporeal punishment." That the Roman income-tax system was successful as respects revenue, is probable; but it was also destructive of the state: for the testimony of history is that its people finally welcomed the inroad of the barbarians as a lesser evil than the continuance of their tax system.

As has been already intimated, there has been nothing corresponding to a general income tax, with personal inquisitorial features, in the fiscal system of France, since the Revolution of 1789. In place of it, taxes are levied on the *indicia* or signs which each citizen presents of his possession of income or personal property: and the rents or rental value of the premises he occupies for residence or business, and the doors and windows of buildings, are regarded as such signs or *indicia*. A tax of three per cent is levied on the interest and dividends of certain securities, shares and bonds issued by departments, companies, and industrial establishments; but its administration is not direct and does not affect associations of partnership, nor private obligations or mortgages.

Russia, some time since, also abandoned the idea of an income tax, and is reported to have substituted a tax upon the rental of occupied houses, with certain exemptions, to be paid by the tenant.

The only one of the great governments of the world at the present time which can prefer a claim to a large measure of success in administering an income tax is that of Germany, and especially that of the Kingdom of Prussia. And the methods by which such success has been attained, and which seem to be based on the precedents established by the old Romans so far as the changed conditions of civilization will permit, ought to be most instructive to those who think this tax can be officially adminis-

tered and made notably productive of revenue in the United States. The tax in Germany is levied as it were in duplicate, or under two forms: first, by towns and cities, and termed "communal"; and second, by the state, under the designation of "class" tax. An entire exemption from these taxes is granted only to the very poorest and humblest of the population.

"Petty hucksters with a small stock of potatoes, second-hand clothes peddlers, servant-girls earning \$4.25 a quarter, pay the communal tax, and are also inscribed in the first (or lowest) grade of the class tax."

Every foreigner staying in Prussia more than one year, but with no intent of becoming a permanent resident, must expect to be taxed on his income at the expiration of the first year, although none of the sources of such income may be within the territorial jurisdiction of Prussia. Up to the year 1891-92 the income tax of Prussia was levied by a board of income tax commissioners, one-third of whom were appointed by the authorities, and two-thirds by the taxpayers. The assessing was done by the board on information and evidence obtainable and in the absence of authentic proof as to the amount of annual income, "circumstantial and hypothetical evidence was accepted." Parties thus assessed might appeal from the conclusions of the board to another tribunal organized for that purpose, whose decision was final. Appeals are not often made to this latter board, as the methods adopted by it to bring unwilling or evasive taxpayers to terms are harsh and inquisitorial in the extreme, and most peremptory. The *modus procedendi* against delinquent taxpayers is very summary. If, after three days' written notice, payment fails to be made, a mandate is issued by the tax-collector, and the property of the delinquent, especially his household goods, is seized and sold. By another curious provision in the German tax law, the collector of taxes is made personally liable for any taxes lost by reason of his failing mercilessly to enforce the collection within a prescribed period. In 1891 some mitigation of the harsh proceedings involved in the assessment of the income tax in Prussia was made by the government, and now every taxpayer is allowed to make a return.

The idea of a general income tax as a means of raising revenue was first embodied in the form of a statute in Great Britain

under the administration of Mr. Pitt in 1798; and was proposed and advocated solely as a means for obtaining additional revenue for the prosecution of the war with France. It imposed a tax of ten per cent on all incomes in excess of £200 (\$1,000). After the Peace of Amiens, in 1802, it was repealed on the ground that a tax of this character ought to be exclusively reserved for the exigencies of war; and for the same reason it was reimposed on a revival of the war during the following year. Subject to various modifications it formed an important constituent of the fiscal system of Great Britain until after the battle of Waterloo and the Peace of 1815, when it was again repealed. After this, nothing more was heard about it until 1842, when Sir Robert Peel reimposed it as a merely temporary measure,—*i. e.* for a period of four years. It has, however, since remained a permanent feature of the British fiscal system, although its repeal has been promised and anticipated by various administrations; and in the general election of 1874, Mr. Gladstone, in an address to the country, especially asked that confidence and continued administration of the government be given him, on the ground that he contemplated an early repeal of the income tax. Circumstances, however, have prevented any such action, and in subsequent years of office Mr. Gladstone has not hesitated to raise the tax whenever the necessity for additional revenue became imperative. That he has regretted his inability to abolish it is evident from his saying in his financial statement in 1853:

"I think that some happier Chancellor of the Exchequer may achieve this great accomplishment, and that some future poet may be able to sing of him—

'He took the tax away

And built himself an everlasting name.'"

From the outset the income tax has been more odious and unpopular in Great Britain than any other form of taxation. Among statesmen and economists there is hardly any dissent from the opinion that the tax is bad in principle, because unequal and unjust in its assessment, and incapable of being made equal and just; and this, too, although the administration of the revenue laws of Great Britain—owing to the comparatively small area of territory subjected to supervision, and the fact that the tenure of office on the part of officials is dependent solely on hon-

esty and intelligence—is wonderfully efficient, far more so than can be expected under existing conditions in the United States. The annual reports of the British commissioners of the inland revenue always mention extensive evasions of the income tax. For the year 1864-65 the amount of such evasion was estimated to have been equal to about one-sixth of the revenue collected under it. The demoralizing effects which are inevitably produced by the habit of making false returns respecting income are regarded by many British authorities as far more deplorable than those resulting from any inequality contingent on this form of taxation: as the transition from a fraud upon the government to a fraud upon the public is comparatively easy. On this point, Mr. Gladstone, speaking in 1853, said: "I believe it [an income tax] does more than any other tax to demoralize and corrupt the people"; and Mr. Disraeli, in Parliament, expressed his agreement with Mr. Gladstone by saying, "The odious features of this tax cannot by any means be removed or modified."

Attention is next asked to the recent experience of the United States in respect to an income tax. Under the great financial necessities of the federal government by reason of the war, the attention of Congress was directed to an income tax as a source of revenue as early as the summer of 1861; and in that and the following year, laws establishing such a tax were created. Their provisions were, however, so complicated, and the methods authorized by them so inquisitorial, that the commissioner of internal revenue reported in 1863 that they deprived the tax "of all claims to public favor." The revenue returns under such circumstances were very moderate: \$2,741,858 in 1863, and \$20,294,000 in 1864. In this latter year a more comprehensive and effective law was enacted, which was followed by better results; the collections to the credit of the income tax rising from \$32,050,000 in 1865 to \$72,982,000 in 1866, and \$66,014,000 in 1867. But as the necessity for very large revenues on the part of the government ceased with the termination of the war, and the spirit of patriotism engendered by the war on the part of the people abated, the collections fell off very rapidly. Thus between 1866 and 1867 the total receipts on account of the income tax, without any change in the law, declined from \$72,982,159 to \$66,014,-

000; and in 1872, with an exemption of \$2,000, only 72,949 persons in the United States, out of a population of over 39,000,000, admitted under oath that they were in receipt of any income liable to taxation in excess of the exemptions. Those only who were officially and intimately connected at this time with the internal revenue department of the United States treasury can form any adequate idea of the amount of perjury and fraud that characterized and pervaded the country, during the years 1867-72, as the outcome of the then existing system of internal revenue. And American ingenuity was never more strikingly illustrated—not even by the exhibits of the patent office—than it was at that time in devising and successfully carrying out methods for evading the taxes on incomes and distilled spirits. The writer, as United States special commissioner of the revenue, proposed in the latter months of 1869 to make a special and official inquiry as to the influences which were then operative in reducing the revenue from the income tax, and make public the results. But the secretary of the treasury refused his consent to the proposition, on the ground that he did not think it was for the interest of the government that the public should have any additional information on this subject.

One curious feature of federal experience with this tax: the tolerance of which would now be regarded as incompatible with any just and efficient administration of it, was, that the returns made under it were thrown open to the public; and one commissioner of internal revenue instructed his officials to have them published in the pages of local papers, "in order," as he said, "that the amplest opportunity may be given for the detection of any fraudulent returns that may have been made." This idea did not, however, find much favor with the public, who in fact, during the later years of the tax, were inclined to regard with great equanimity all successful attempts to evade it.

The income tax ceased to form a part of the internal revenue system of the United States after the year 1872. It has, however, since been made a part of the tax system of several of the states; and the following record (hitherto generally

overlooked by the public) of the recent administrative experience of one state ought to be especially worthy the attention of those who advocate the re-adoption of this form of taxation by the federal government.

No state in the union has a more illiberal, all-pervading system of taxation than Massachusetts, and in no state is the administration of tax-laws more stringent and arbitrary. What Massachusetts fails to accomplish in the assessment and collection of taxes, would therefore seem to be of little use for any of the other states, or the federal government, to attempt with any anticipation of success. This Massachusetts system finds its fullest exemplification in the city of Boston; and the officials who constitute its department of municipal taxation never indulge, as the taxpayers well know, in much sentiment in the discharge of their duties. The acknowledged representative of this board for many years never hesitated to say that he recognized but one principle, and that was, that in matters of taxation the taxpayer had no rights which the state was bound to respect; and, as chairman of a state commission which some years ago made a report to the legislature, and with the Declaration of Independence confronting him with its assertion that it is a self-evident truth that "all men are endowed by their Creator with certain inalienable rights," he also gravely asserted that "the individual person [in Massachusetts] has no inalienable rights except that to his own righteousness."

One of the specialties of municipal taxation in Boston, under the supervision of its board of assessors, is an income tax, and its methods of administration are substantially as follows: Taxpayers are required to make a return annually, and in detail, of all their property which the law makes subject to taxation (and that embraces almost everything in Massachusetts except their proprietary interests in graveyards); and in blanks officially furnished for such purpose there is a special space for a return of every individual's income. If no return is made, then the board of assessors meet in secret in a upper room of the city hall, known as the "dooming chamber," and arbitrarily determine the amount of income

for which each delinquent shall be assessed; and from such determination there is practically no appeal. The amount thus assessed for income to the individual is then "lumped in" with the aggregate of his other taxes, and if a dissatisfied taxpayer wishes to discover what amount has been decided upon as his income, the assessors will not afford him any information. Under such circumstances it might naturally be supposed that the administration of an income tax in the city of Boston would be an unqualified success. But what are the facts?

The Boston "Advertiser," which ought to be regarded as good authority, in a recent issue makes the following statement:

First, comparatively few of the taxpayers of Boston make any returns to the assessors of their income. *Second*, the returns that are made are not open to the inspection of the public. There is no law in Massachusetts covering this point, but one of the Boston assessors is reported as saying that if the returns were open to public inspection none would be made, as the chief objection of taxpayers to filing returns was the fear that their incomes from business or professions might be known. The statutes of Massachusetts, however, provide that the returns of each individual's property shall be made by the assessors of every city and town in the state to the secretary of the commonwealth: but inquiry shows that the Boston assessors make no such returns. *Third*, although the amount annually collected from an income tax in the city of Boston is very considerable,—\$840,000 in 1892,—it probably represents, according to the "Advertiser," *"only about one-fourth of what is due the city from incomes."* In the face of such an exhibit the question is pertinent, What measure of success do the present advocates of a federal income tax expect will follow an attempt to expand the Boston system of its administration over an area of country extending from Florida to Alaska? One would naturally think that the lesson of experience which the government and the people of the United States have already had would restrain further experimenting with this subject until the next war or the arrival of the millennium.

That a free government cannot efficiently collect a tax which its people regard as unjust, without a resort to despotic methods which public sentiment in turn will not tolerate, is illustrated in this further tax experience of Massachusetts. The state laws require that citizens who are shareholders in corporations organized in other states shall be taxed in Massachusetts on the market value of shares so held; and such owners are required to make a return under oath of the amount of such property in their possession. Yet a petition recently presented to the legislature by representative members of boards of trade and chambers of commerce recites that the law in question "is ineffective and therefore ridiculous; as is proved by the fact that although the market value of shares of foreign corporations held by citizens of Boston alone is known to be over \$600,000,000, the amount taxed by the assessors of Boston is only estimated at \$45,000,000; and nearly all of this that is known, is taxed to the unfortunate people whose estates are in trust."

A few other points bearing on the proposition to re-enact a federal income tax, which do not seem to have attracted attention, are worthy of consideration. Such a tax necessarily involves multiple taxation on one and the same income, person, and property. For example: a citizen of any state would be liable in the *first* instance to the federal tax on his income; *second*, to a state tax on the same income; *third*, to a tax on the property or business producing the income in virtue of its location and consequent territorial jurisdiction of the state. In some states—Massachusetts, for example—the state, in virtue of its jurisdiction over a person, taxes him also for property beyond its territorial jurisdiction, and subject to taxation in the state where it is an actuality. Doubtless such duplications in a greater or less degree will be inevitable in the case of all federal taxation. But when so many sources are available to the national government for obtaining revenue, it would seem to be impolitic for it to encroach on those methods which are particularly applicable to the states: as income taxes; taxes on legacies and successions, which are governed and protected by state laws; and on franchises, which are almost ex-

clusively granted by the states and rarely by the federal government. Certainly there would seem to be no warrant, in either justice or expediency, in unnecessarily favoring such a system of multiple taxation, thereby increasing the real or fancied grievances of the people in respect to all taxation, and creating, by reason of a sense of injustice, additional temptations on the part of the taxpayer to fraud and evasion.

Again, all modern systems of income taxation have recognized the principle of discriminating in favor of persons in receipt of comparatively small incomes; and have provided as a fundamental feature of their policy that all incomes below a certain sum should be exempted from assessment. Such exemption, except in the case of the United States, has always been of a comparatively small amount. In Great Britain it is £150 (\$750). In Germany, under the communal income tax, it is from \$70 to \$100; under the class, or state tax, about \$600. In Austria it is \$113; in Denmark, \$215. As, in theory, all citizens ought to contribute in *proportion to their revenue* to the support of the government under which they have chosen to live, and to which they look for protection in respect to their persons and property, the exemption of any from an income tax can only be justified on the assumption of the non-receipt by the citizen of an income beyond what is necessary to defray the expenses of a moderate living. In truth, any exemption under a general income tax is in principle an act of charity on the part of the government. The authors of the proposed income tax now before Congress especially proclaim that the chief object sought by them in this measure is to transfer the burdens of the state from the shoulders of the poor to those of the rich. It is therefore interesting to note where they propose to draw the line in respect to charity, and as to the amount of property the possession or enjoyment of which, in their opinion, constitutes riches.

If we assume five per cent as about the present annual average profit on money, land, or other property in the United States over and above all charges and taxes, then an exemption of \$4,000, in an assessment under an income tax, would represent an accumulation, or business, or profession, of the

value of \$80,000. If we take the rate at which the United States can borrow money,—namely, three per cent,—then an exemption of \$4,000 would represent an accumulation of a citizen, invested in United States securities, of \$133,333. And according to any fair interpretation of the action of the committee reporting a \$4,000 exemption, a citizen who is worth less than \$80,000 of ordinary property yielding income, or \$133,000 of property invested in United States bonds, is a legitimate object for national charity; the above sums representing the dividing line in the United States between those who are entitled to be regarded as poor and those who are entitled to be considered rich. Such an assumption finds no precedent in fiscal history. Such an exemption is unwarranted favoritism to nine-tenths of the well-to-do people of the United States, who are abundantly able to pay any just proportion of the taxes which the government finds it necessary to impose for its support.

No man is a freeman whose industry and capital are subject to exaction, and from which his immediate competitors are entirely exempt. Equality of taxation all of persons and property brought into open competition under life circumstances is necessary to produce equality of condition for all in all production, and in all the enjoyments of life, liberty, and property. And government, whatever name it may assume, is a despotism, and commits acts of flagrant spoliation, if it grants exemption or exacts a greater or less rate of tax from one man than from another man, on account of the one owning or having in his possession more or less of the same class of property which is subject to the tax. If it were proposed to levy a tax of two per cent on annual incomes below \$4,000 in amount, and exempt all incomes above this sum, the unequal and discriminating character of the exemption would be at once apparent; and yet an income tax exempting all incomes below \$4,000 is equally unjust and discriminating. In either case the exemption cannot be founded or defended on any sound principles of free constitutional government; and is simply a manifestation of tyrannical power, under whatever form of government it may be enforced. The great republi-

can principle of equality before the law, and constitutional law itself, alike preclude any exemption of income derived from like property.

Finally, it is claimed that an income tax is a present necessity to meet an urgent (but probably a temporary) need of the government for more revenue; and that by no other method can such additional revenue be obtained more readily and conveniently. But for such claim there does not seem to be any good and sufficient warrant. No country has such available and comparatively untouched sources of revenue as the United States. It admits of demonstration that from the present rate of taxation on distilled spirits, and from a moderate increase of the taxes on fermented liquors and tobacco,—such as would not diminish consumption or create undue temptations for revenue evasions,—the federal government can obtain a revenue sufficient to defray all its ordinary expenditures, including interest on all its debts, and have in addition a large annual surplus applicable for other purposes. If slight taxes in addition were imposed on the importation of sugar, or of sugar, tea, and coffee, no other taxes would need to be imposed by the federal government. It is safe to assert that in all financial history no parallel can be found for such an exhibit of the finances of any nation. If such an opportunity could be presented to the finance minister or the tax-burdened people of any other nation, it would be embraced with great and universal exultation and rejoicing; and if the financial policy of the United States could be considered and regulated by legislation, apart from party politics, as such legislation is always considered and regulated in all other countries, there would hardly be a doubt that some such system of taxation as above indicated would be adopted. As it is, a system of class legislation, full of the spirit of communism, seems to find favor with the American people.

Forum. 19: 48-56. March, 1895.

Is the Income Tax Constitutional and Just?

Edwin R. A. Seligman.

When we speak of uniform and equal taxation, we mean substantial uniformity, substantial equality. Absolute equality it is impossible for human agency to secure; absolute uniformity it has never been the object of legislation to attain. All that government can hope to achieve is to treat all the individuals in the same class equally and uniformly. But this does not mean that no distinction can be made between classes. For instance, it would be plainly unconstitutional if a state were to tax A and to exempt B who is in precisely the same class or condition. But it is perfectly competent for the state to say that certain classes of property should be exempt, like churches, or educational institutions, or manufacturing enterprises, or timber lands, or household furniture. And it is, again, perfectly competent for the state to exempt property to the extent of \$250 or even \$1,000, as is the case in several of our states to-day. All the individuals in the class are treated uniformly, but a distinction is made between the classes. And these distinctions have very generally been upheld in this country as not in violation of a substantial uniformity. It is needless to give decisions, which may be found in any legal treatise. Not only have these exemptions from the general or property tax been upheld, but the principle of graduated taxation itself has been upheld. Some of our states levy progressive taxes on corporations, saying that corporations with a certain income shall pay a certain rate and that corporations with a higher income shall pay a different rate. So again the inheritance tax in New York exempts \$10,000; the collateral inheritance tax in other states makes the same amount of property pay different rates according as it goes to different classes of relatives; and the direct inheritance tax of Ohio levies a progressive scale in different amounts of property, even though it all goes to the same person. All these laws are held to conform to the substantial uniformity demanded by the constitutions.

This is as it should be. The object of uniformity is to secure equality or justice. Yet the final test of equal justice must be sought in the well-considered public policy. It is the social consensus or the public sentiment which in the last resort is our only test of justice in taxation, as of justice in other human relations. If, therefore, certain distinctions or exemptions are made in the interest of the whole community and for the sake of the public welfare, the substantial equality demanded by the constitution is attained. An absolute uniformity would in such a case defeat the object of the constitution and prevent the equal justice aimed at by organized society.

Now what are the facts with regard to the income tax? From the legal point of view can it be seriously maintained that a thousand dollar exemption from the general property tax or a ten thousand dollar exemption from the inheritance tax is constitutional, but that a four thousand dollar exemption from the income tax is unconstitutional? If this provision in the income tax law is unconstitutional, then we must overturn hundreds of decisions in our state tribunals, and completely reverse the general tendency of fiscal development throughout the civilized world. We must say that uniformity means absolute uniformity, and declare unconstitutional hundreds of existing laws which aim merely at substantial uniformity. There is, therefore, very little prospect of the tax being declared unconstitutional on that ground.

This brings us to the question whether the income tax is indeed a just measure. Some people say it is socialistic, and that the state has no right to confiscate earnings. This objection scarcely deserves a refutation. It entirely misconceives the relations of the individual to the state.¹ The cry of socialism has always been the last refuge of those who wish to clog the wheels of social progress or to prevent the abolition of long-continued abuses. The factory laws were in their time dubbed socialistic. Compulsory education and the public post-office system were called socialistic. There is scarcely a single tax which has ever been introduced, which has not somewhere or other met with the same objection. This is true no less of the new inheritance tax in some of our commonwealths and in England than of the new

property tax in Holland and Prussia. But the argument nowhere carried any weight. In fact, if there is any socialism, it would be far more obvious in the property tax, which exempts the earnings of the poorer classes, than of the income tax which reaches earnings from other sources than mere property. Yet we have become so accustomed to the property tax that the idea of its being socialistic seems ridiculous.

Others have said that the income tax is un-American and undemocratic. But this objection is scarcely less absurd. It is a matter of common knowledge that the income tax has been most fully developed precisely in the most democratic countries, like Switzerland, England, and Australia, and that the whole tendency toward democracy, even in non-republican states, has gone hand in hand with the extension of property and income taxation.

A more formidable objection is the old one that the income tax, however wise in theory, works badly in practice. We must, however, not forget that the real inquiry is not what is absolutely good (for that is unattainable) but what is relatively best. And it has been shown by competent evidence that if we compare the income tax during the Civil War period with our general property tax in the states, the former tax with all its imperfections, crudities, and frauds was far more successful than the latter, and that it succeeded in reaching many of those who contrived to escape the tax on personalty.

Forum. 41:513-20. June, 1909.

Shall Incomes Be Taxed? Henry Litchfield West.

The British income tax in one form or another has been in force almost continuously for 110 years, and since 1842, more than half a century ago, there has practically been no period when the law was not in force. For the fiscal year which ended March 31, 1909, with a population in Great Britain and Ireland of 44,500,000, the revenue from the property and income tax was \$165,000,000, being the greatest single source of revenue

in the United Kingdom. A curious fact about the administration of the tax is that the actual revenues always exceed the estimated receipts. The lowest rate of charge since the foundation of the present system in 1853 has been two pence on the pound sterling, which would be four cents in \$4.86, or a fraction under one cent on the dollar. The highest charge has been one shilling, three pence, or approximately thirty cents to the \$5.00.

The large revenue which Great Britain enjoys from the income tax is due to the fact that there is one taxpayer in each forty-four of the population. In 1907 there was a total of 578,000 assessments upon incomes from business, professions, etc., while the employees of business firms and government and public companies brought the total up to 996,000, or near the million mark. Of this grand total no less than 750,000 paid a tax upon incomes not exceeding \$1,500 per annum. As the incomes increase in size the number of assessments gradually decrease until the returns show only 949 persons or firms whose incomes exceed \$250,000 a year. Should an income tax be imposed in the United States the proportionate number of taxpayers would be much less, as no incomes less than \$5,000 are to be taxed, while in England only incomes less than \$900 escape paying tribute.

Although Senator Aldrich declared some years ago that the income tax was socialistic, populistic and democratic and that no one advocated it unless he was interested in securing a redistribution of wealth in the United States, the fact is that the utterance of President Taft has done much toward giving respectability, as it were, to the proposed legislation. It may not be generally known, also, that eminent Republican leaders in the past have been upholders of the income tax proposition. For instance, the late Senator Sherman, of Ohio, declared that the income tax was the least inquisitorial and unjust of all the taxes imposed by the government. "It is the only tax levied in the United States," he said, "that falls upon property or office or on brains that yield property, and in this respect is distinguished from all other taxes levied by the United States, all of which are levied upon consumption, the consumption

of the rich and the poor, the old and the young." He asserted, also, that the consumption of the rich does not bear the same relation to the consumption of the poor that the income of the one does to the wages of the other, and he predicted that as wealth accumulated in this country this injustice in the fundamental basis of our system, as he termed it, would be felt and forced upon the attention of Congress.

At the end of a long line of Republican leaders who have stood sponsor for the income tax stands Theodore Roosevelt, who, while president of the United States, advocated, in more than one message to Congress, the enactment of an income tax law, asserting that it was an absolutely essential feature of our system of taxation. To quote Mr. Roosevelt's own words:

"When our tax laws are revised the question of an income tax and an inheritance tax should receive the careful attention of our legislators. In my judgment both of these taxes should be part of our system of federal taxation. * * * * The graduated income tax of the proper type would be a desirable feature of federal taxation, and it is to be hoped that one may be devised which the Supreme Court will declare constitutional."

The belief expressed by two presidents that the question of the constitutionality of the tax has not been eternally settled has gone far toward making the subject one of earnest discussion. The point which is herein sought to be emphasized is that the opinion of the Supreme Court, standing, as it does, in direct antagonism to the decisions of a hundred years and declaring unconstitutional a tax that in practically similar form, was effectively administered for more than a decade, is not accepted as the final judgment. As long as this is the case and as long as men of high standing in the national legislature feel that an income tax is a righteous tax, just so long shall we have the justice of its imposition pictured to the public mind. There are men who believe that the Supreme Court erred and who are determined that there shall be another adjudication of the question; and as long as these men continue to occupy commanding stations in public life, it is certain that they will not allow the subject to remain quiescent.

Harper's Weekly. 52:32. June 6, 1908.

New French Income Tax. M. L. Girault.

Of the taxes inflicted on us by the old system some were funny, some were unjust, as, for instance, taxing the whole of an inherited capital without first deducting from it the debts of the estate; some even were pernicious, like our tax on doors and windows, putting a premium on things as necessary to existence as air and light. But as the property owner was taxed only on the appearance of property, he was thereby encouraged to thrift and economy, which are the two vital characteristics of the French nation.

Now he is to be taxed on the property itself, which is perfectly fair; but the amount imposed is to be progressive—that is to say, the more he owns, the higher his percentage of taxation is to be. For example, he may be obliged to give five per cent. on an income of 3000 francs, ten per cent. on 8000 francs, and fifteen per cent. on 12,000 francs per annum. Under a certain amount, probably under 2000 francs income, there will be no taxation at all, but above 15,000 francs the charge is to be tremendous.

Of course this plan appeals to the masses. Their argument in favor of it is simple. "Why should not a fellow with plenty of money give more to the state than a laborer?" they ask. "A few thousand francs more or less do not mean anything to him. He will not miss them, whereas every penny counts in the budget of the poor."

It is true enough, and we cannot wonder at the uneducated being deceived by an ideal which has fascinated such men as J. B. Say and Montesquieu.

Yet, at a glance, it is easy to see that this theory of a progressive income tax could justify itself only on the condition that the benefits derived by the people from the state increased according to their percentage of taxation. Now in reality the reverse happens. It does not cost any more to the government to protect one man than protect another man, to look after large incomes than after small ones; and the millionaire does

not wear out the state roads any more than the pauper. On the other hand, many public services, such as public instruction, savings-banks, public charities, are mainly and in some instances exclusively organized to serve the interest of the impecunious.

It is chimerical of the poor to think they are able to escape taxation. As soon as the law is applied, they are going to suffer from what is known to economists as "phenomenon of repercussion," and they will find themselves taxed indirectly very heavily when they are no longer taxed directly. The landlord will raise his rent, the baker the price of his bread, the grocer that of his groceries. This is so certain to happen that the Chamber of Deputies, while still planning the income tax bill, has already considered the necessity of raising the salary of all government employees in prevision of a sure increase in the cost of living.

Those whom the law intends to reach, particularly the capitalists, are going to evade the difficulty by investing their money outside of France. Since the first bill was voted in March, 7,000,000 francs have disappeared from the Paris Bourse, causing serious injury to trade and industry.

The opportunity of the capitalist to cast off most of his duty as a citizen throws the whole of the burden upon the hard-working poor, in a word, upon the most deserving part of the nation, and it falls as a crushing blow. Men of this class are not well off at best, and it is hard to figure out how they can manage to face any new financial responsibilities.

Independent. 67:178-82. July 22, 1909.

Reason for the Income Tax. Albert B. Cummins.

It is, of course, impossible to state with absolute precision the revenues and expenditures of the government for the future. We can, however, arrive at approximate conclusions, as the treasury department arrives at them in sending Congress its estimates for the ensuing years. Taking the most conservative position, to be always on the safe side, let us glance at the pros-

pect immediately before us, during the next two fiscal years, ending June 30, 1910 and 1911. The expenditures have already been determined in the case of the first year. We have appropriated (during the last session) \$1,044,401,857.12 to carry on the affairs of the government for the year ending June 30, 1910. To this must be added \$26,080,875 for contracts authorized, which are equivalent to appropriation. Should Congress determine to provide for the entire cost of the Panama canal by the issue of bonds, we can deduct the \$37,000,000 appropriated for that purpose; but from some source we must derive sufficient revenue, during the ensuing year, to cover the assured sum of \$1,033,482,732.12.

Our revenue from the post office department is less than nothing. It will result in a deficit estimated at from \$16,000,000 to \$20,000,000. It is thoroly optimistic to estimate that our receipts from so-called internal revenue will be \$255,000,000. From all other sources we cannot except more than \$64,000,000. So that, looking at it most hopefully, there will remain \$479,790,362.12 to be provided for thru custom receipts—or by some other method of taxation.

In the careful estimate which he gave the Senate, Senator Aldrich stated that if the rates in the present bill had been applied to the imports of 1907 they would have raised \$8,000,000 more than was realized, and that our imports for the coming year would probably be as large as in 1907.

We may accept his judgment as to the comparative efficiency of the two bills; but the year 1907 was one of phenomenal commercial activity, to which we shall hardly return so quickly, after the depression of 1908, and if the present bill accomplishes its purpose of encouraging home industries it is also reasonable to suppose that we shall have made some progress in supplying our markets with home productions. It is true that at present we are gaining rapidly over the revenues of 1908, from custom duties, but this is largely accounted for by the rush of importations of many articles upon which it is known that the duties are to be increased. For the first five months of the present calendar year our customs receipts, in spite of the exigencies of the case, are but 95 per centum of what they were in 1907,

and it would be most unreasonable to anticipate that, for the year ending June 30, 1910, if the old rates were in effect, we could collect, at the custom houses, more than \$315,621,696. Assuming that the new bill will add \$8,000,000 upon the same importations, and that the importations will not fall off, the most hopeful prospect for June 30, 1910, is a record of custom receipts amounting to \$323,621,695, against the required \$479,790,362.12. The probable deficit of \$156,168,677.12 is one argument, from 1910, for an income tax.

In the case of 1911, much has been said of a spirit of economy which is to dominate the next session of Congress. I am persuaded that there are many opportunities for retrenchment, but it is idle to expect that if we maintain the government as now established, there can be any material reduction in our expenses. (We are constantly assuming new duties, taking on new functions and receiving stronger and stronger demands in every direction for increased appropriations. There is no fair-minded man but knows that for every dollar we can save thru the exertion of economy in the maintenance of public affairs as now established we shall expend two dollars in the enlargement of national functions. The condition can be put even stronger, for during the last session Congress made no appropriation for the improvement of waterways, except for the continuance of work in progress, and no material appropriation for public buildings. Both will be strenuous in their demands upon the next session. The efforts of the army and navy to reduce their demands for the next session amount, largely to postponing, for one year, such expenditures as can be delayed. It is very conservative to estimate that our appropriations for the fiscal year ending June 30, 1911, as before not including the regular post office appropriation or the Panama canal, will amount to \$840,000,000.

Allowing for the natural increase in internal revenue, that receipt will be \$260,000,000. From other sources admitting \$65,000,000, and allowing \$340,000,000 from customs, which is nearly \$8,000,000 larger than it has ever been, the deficit for 1911 will be \$175,000,000.

Even if we were to assent to a policy of despoiling the sinking

fund and should we deduct \$30,000,000 for the currency fund, we should still have a deficit of \$66,168,677 and \$85,000,000, without the least hope of increasing our receipts from accustomed resources, or of diminishing our expenditures. It is, therefore, manifest that we must adopt some system that will permanently add to our revenue—and add to it more than the \$25,000,000 estimated as the result of a tax on the net earnings of corporations. We shall require all of the revenue that can be raised by a tax of 2 per centum upon all incomes above \$5,000, including gifts, bequests and inheritances.

It is a fallacy to urge that the establishment of an income tax may be used as a weapon against protection. The protective system can have no more efficient friend and ally than a permanent well-administered income tax law. The time will come and that before long, when protection will be possible only as it is coupled with some provision for adding to our revenue. And as our home production multiplies under protection, our importation of competitive articles will necessarily grow comparatively less and in order to keep up the revenue, if we have no such supplements as an income tax that is adequate, we shall be compelled to increase the import duties upon those things which we do not produce. Will the people of this country endure such a tax?

When the issue is squarely presented it will be found that the great majority will insist upon raising the additional revenue by a tax which will make those who are in the enjoyment of the greatest wealth bear a larger part of the public burden. Either we must have some such tax or protection must give way in the near future, in order that we may have a revenue from competitive importations. If we are to save protection as a governmental policy we must exercise some other taxing power. What shall it be? The general government will never adopt as a permanent part of its system a tax apportioned among the states according to population. Nothing less than the life of free institutions will ever warrant even the temporary imposition of a tax on that basis. Our only recourse is to some form of what has been called "indirect taxation." Of these, every form of an income tax which can be laid in harmony with the decision

of the Supreme Court in the "Pollock case" is so unequal, unjust and oppressive that its adoption as a permanent measure will not be accepted. We are therefore remitted, in all of our efforts for the future, to practically three forms of taxation; first, an income tax; second, an inheritance tax; third, some enlargement of what we call the internal revenue tax, such as stamp taxes and the like.

Forgetting for a moment the questioned validity of an income tax, which of the three forms is it most expedient for the government to employ? Stamp taxes, in the very nature of things, are for emergencies, and in ordinary conditions are unjust and unfair, because they are imposed indiscriminately, and must fall in greater comparative proportion upon those who cannot afford to pay them than upon those who can. They are extremely unpopular in America and the source of constant discontent. This leaves the income and inheritance tax—which, to my mind should be combined, as in the amendment which I introduced in the Senate—as the only practicable resource. I have never felt that an income tax has not some objectionable features, but they are trivial and ephemeral compared with the objections to any other form of taxation. If it is evident that we must, now or in the near future, resort to some permanent form of taxation not now employed, inherent justice demands that we take incomes rather than any other kind of property, whether tangible or intangible.

The fundamental merit of the tax on incomes is that it places the burdens of government upon those who are best able to bear them. It discards unproductive property and unproductive labor, exacting but a small percentage of actual gains, profits, and earnings. It exacts nothing which is needed for either the necessities or the comforts of life.

It is urged against this view that property already pays its share of the expenses of the government, and in a sense it can be argued that wealth, or property, pays all the taxes that are contributed to the support of organized society, just as there are arguments from which the conclusion can be fairly deducted that all such contributions are really a tax upon consumption. The thought intended to be exprest by the argument is that

the man who has made little accumulation of property, whose name is not on the assessment role, is not bearing his share of the expense of government and that if additional revenue is necessary it should be imposed upon consumption rather than on accumulated property. But the tenant practically pays the taxes assessed against his dwelling. The poorest customer of the dry goods and grocery pays the assessments against what he purchases. The workman who pays five cents to ride home, after his day of toil, pays part of the taxes laid upon the property of the street car company. Wherever we turn we reach the same conclusion, and it is my deliberate judgment that the men who accumulate nothing carry vastly more than their fair share of the weight of the government.

Every tax of which I have ever heard or read, save the poll tax, is laid upon property, either tangible or intangible, and in some form falls, finally, upon the people who use or consume the property taxed. Therefore let us not fear that in putting upon incomes the duty proposed we are dealing unjustly or unfairly by the wealth of the country. It is only when the tax is imposed upon the most moderate incomes that it becomes oppressive. There is a principle which I think is recognized in all civilized governments, warranting the exemption of those incomes which are fairly required for the necessary expenses incident to the support and education of the family. As a public policy it is better to allow a man to discharge the imperative duties he owes to himself and to his family before he is called upon to discharge the duty which he owes to his government. In dire emergencies this might be strained, but taking things as they are I do not believe that the lesser incomes should be brought within the scope of the statute. The point at which the tax should begin is largely a matter of judgment and arbitrary, but upon the whole I believe that exempting incomes of \$5,000 or less will be found more satisfactory than a smaller amount.

Journal of Political Economy. 8: 433-51. September, 1900.**Income Tax and the National Revenues. Max West.**

The desirability of an income tax is a distinct question; but here also is much confusion of thought. An impression seems to prevail that there is some peculiar virtue (or vice) in an income tax which makes it, even, when levied at a proportional rate, an instrument for bringing about a greater equality between the rich and poor. This impression is due largely, no doubt, to the very generous exemption in the income-tax law of 1894; but exemptions are equally applicable to other direct taxes. The fact is that an income tax is no more favorable to the poor than many other forms of taxation. Its abstract justice is defeated by its practical defects, some of which it seems impossible to remedy. It falls most heavily not upon the largest incomes, but upon those whose amount can be least readily concealed. The man with a salary cannot escape; the man of wealth can, according to the elasticity of his own conscience. The income tax punishes honesty and puts a premium upon perjury. There is nothing in the nature of the tax which makes it easier to assess justly than the state taxes on personal property; the superior federal administration might save it from becoming a farce (as the still better administration of Prussia makes it a partial success), but could never make it operate equally. The comparative success of the Civil War income tax in its early years was due chiefly to the extraordinary patriotism of the war period, which would not even question the constitutionality of the tax as long as the war continued. As soon as the war was over the receipts suddenly began to dwindle away. Even the English income tax, with its principle of taxing each constituent part of income at its source, is weak in one of its most important parts, where that expedient is not practicable.

Minneapolis Journal. October 6, 1909.

Empire of Japan: Japan's Greatest Problem.

Frederick J. Haskin.

The fiscal problem in Japan is to provide sufficient money to maintain the army and navy and to constantly increase the latter; to pay for the administration of affairs in Korea and Manchuria; to meet the deficits of countless business concerns with treasury subventions; to pay the subsidies which keep the enormous Japanese merchant marine on the high seas; to maintain the most extensive and expensive diplomatic and consular service in the world; to finance numberless schemes for industrial development and business exploitation of the newly acquired Japanese "possessions" on the mainland; and to meet the enormous obligation of a huge imperial debt.

The people from whom all this money must come are the poorest, albeit the thriftiest, on earth. The arable area of Japan, which supports a population of 50,000,000 people, is less than the area of West Virginia. If every human being in the United States, Canada and Mexico were to be forcibly removed to the state of Kansas, then Kansas would not be as crowded as Japan is today. The best rice in the world is grown in Japan, and rice-growing is the chief industry of the nation. Yet the farmers are so poor that they cannot eat the rice they grow. They must sell it and then buy the cheaper grades of rice from French Indo-China, and many of them are too poor even for that. They must subsist upon a diet of boiled millet seeds, with a feast of fish once a month. The average amount of land tilled by each family is a trifle less than two acres. The agricultural skill, the unflagging industry, the thrift, the patience of the Japanese farmer is not to be equaled under the sun. Yet of the product of that tiny farm, hardly big enough for an American kitchen garden, the farmer must support his family, which is never small, and he must give of his produce 27 per cent. in taxes to the imperial government, and from 2 to 8 per cent. in taxes to the local government.

There are some prosperous business men in Japan, some few

rich men. If a man's income reaches the amount of \$50,000 a year, he must pay 68 per cent. of the whole to the government as an income tax, or an annual tax of \$34,000 out of \$50,000. And that tax is not based upon a return made by the taxpayer, but upon an estimate made by the secret agents of the government, in a land where the secret agents know every secret. There are only twenty-three men in Japan who pay taxes on an income this large. But the income tax pursues, in a descending scale, the man in every walk of life, down to an annual income of \$50. And the very poorest must pay an average income tax of 32 per cent. The land tax in cities is 20 per cent. per annum on the assessed valuation. The assessment is made at about 50 per cent. of the actual value, so that in ten years the owner of city real estate has paid in taxes the full value of his property.

These enormous taxes are paid almost without complaint. Just before the war with Russia the taxes were quadrupled for war purposes. Patriotic Japan did not protest. Just after the war the war taxes were almost doubled again for—what purposes? Patriotic Japan endured and paid. Patriotic Japan is still enduring and paying, and there is no prospect that the taxation burden will be lifted. There is some protest, of course. There was a boycott of salt as a result of the government monopoly increase in prices. The newspapers have inveighed against higher taxes, but their protest has been no more vigorous and no more successful than the campaign for taxation reform in the American press. The ministry was forced, by public opinion, to place a limit upon the expenditures of the navy and army, but the limit is quite liberally high.

The national debt of Japan approximates \$1,140,000,000—a per capita indebtedness of \$21.93, more than twice the per capita indebtedness of the United States. The Japanese debt represents money actually borrowed abroad for the purpose of pushing forward the imperial program. The American debt is largely an artificial concern kept as large as possible to enable an absurdly inadequate banking system to keep up an inadequate currency issue. The difference is that the Japanese debt will have to be paid in good cold cash, and the collectors are now busy taking money from the people to lay up against the day of reckoning.

Moody's Magazine. 3:331-3. February, 1907.

Inheritance and Income Taxes. M. S. Williams.

In the first place, a tax is levied primarily for the revenue it will yield. Sometimes taxes are levied for the purposes of social regulation. When levied for other purposes than to secure revenue, two things must be shown: first, the arguments in support of such regulation must be convincing, and, second, it must be made clear that such social regulation will be realized more effectively and economically thru the imposition of a tax than thru legislation directed immediately to the purpose. It must be shown, also, that such a tax will not bring in its train evils which may overtop those which it is proposed to cure.

Federal Government Does Not Need More Revenue.

Criticism of the president's position hinges on the fact that the federal and state governments draw their revenues ultimately from the same source, that is, from the earnings of the people. All that goes for the support of one grade of government reduces the amount available for the support of the other grade. The national government raises its \$7 per capita with little difficulty. Its revenues are nearly always in excess of its needs, even when liberally administered. While this is true, the states and local divisions are, almost everywhere, struggling along with deficient supplies. If we want to hasten the process of subordinating the states and expanding the powers of the central authority there could hardly be found a more effective means than to permit Congress to encroach upon the fiscal domain of the states.

The first objection to the proposed measure, therefore, is that the federal government does not need any expansion of its revenue basis, while the need of greater revenue for the states is most imperative.

Another serious defect in the president's plan becomes apparent when we consider the problem of administration. The economical collection of a tax requires that the tax be one adapted to the administrative machinery already in existence.

If this governmental organization does not exist it must be created for that purpose; such modification involves expense, so that a large portion of the tax cannot become a true fiscal resource. Moreover, if the necessary adjustment involves the duplication of agencies already engaged in similar work in another grade of government the waste will be permanent.

National Sources of the Federal Revenue.

The federal government has been, from the first, charged with the control of commerce with foreign nations. In accord with this duty we have an extended consular system devoted to the interests of our foreign commerce. The registry of vessels, the improvement of harbors, the regulation of shipmasters and pilots, laws relating to immigration, naturalization, and the rights of aliens, and much other legislation of a kindred character, emanates from the national rather than from the state governments. As an incident to this control the first Congress very properly selected imports as the main object of taxation for federal purposes, and from that day to the present import duties have formed the chief source of federal revenue.

Suppose, for the argument's sake, we admit that the central government may need an extension of its revenue basis, and admit also that taxes on inheritances and incomes would not impede the flow of revenue to the states; the question still remains whether the national government is so organized as to make the most economical use of such taxes or whether there may not be more appropriate sources.

In answer to this question we need only refer again to the functions of the federal government. Besides having jurisdiction over foreign commerce: Congress is charged with the regulation of trade between the states. Congress is already engaged in this important duty and is supported by a well-organized division of the executive department charged with administering such regulative acts. A tax, or a series of taxes, on interstate commerce would involve no extension of federal functions. If federal revenue is needed this resource might be utilized, and for the reasons which make import duties so highly appropriate.

The whole subject of property rights, contracts, bequest and inheritance within the states, are under control of the states. There is nothing in the federal system comparable to the probate courts of the states. The administration of taxes on inheritances whether general, collateral, or of any other sort, must naturally develop upon the courts of the states, and any extension of federal activities in this field would involve a degree of interference with state autonomy which is wholly incompatible with our traditional views regarding the distribution of functions.

The Two Principal Objections.

The two objections to the president's proposal are, therefore, first, that the revenue is not needed and any revenue thus collected would operate to the loss of the states; second, that any inheritance tax is not adapted to the scope of federal functions and its collection would not only be uneconomical but would involve a serious menace to state autonomy.

These objections both apply with but little modification to any scheme of income taxation which can be devised. These objections must be final, not against the taxes *per se*, but against their imposition by the central government. The fact that such federal taxes have been collected in the past does not affect the conclusion. Neither is the conclusion affected by the fact that a constitutional amendment might clear away certain superficial defects and render taxes of this nature more equitable than were the income and inheritance taxes of the past. The objections that have been raised are such that a constitutional amendment cannot cure. They are inherent in our political theory, when once that is analyzed and understood, and must stand until we are ready for the complete domination of the national government and the suppression of the states.

Nation. 26: 287. May 2, 1878.

Income Tax Here and in England.

Some of the western papers have undertaken to demonstrate the expediency of the income tax by showing its success as a

means of raising revenue in England, which is about on a par with the argument which some of the senatorial group use, that General Grant's social success among the European aristocrats proves that he merits a third term. In the first place, the income tax was never suggested or thought of in England as a means of "striking" one class or district in order to spare another class or district. It has always been advocated simply as a fiscal scheme, and not as a means of gratifying social prejudices. The most unfortunate feature in the proposal that it should be revived here just now is, that it is part and parcel of an assault on that portion of the community which is supposed to be in possession of accumulated property, for the purpose of relieving another portion which is supposed to be in debt. It is a sufficient, and indeed fatal, objection to any tax that it has originated in any such way, and there is no doubt that it was to prevent attacks on wealthy localities by poorer and more populous ones that the Constitution provided that no "capitation or other direct tax" should be laid except in proportion to population.

The purely fiscal origin of the tax there, too, has made its collection efficient, decent and inoffensive. The commissioners who have charge of it are sworn to secrecy. The returns are as secure from public inspection in their hands as if locked in the taxpayer's desk.

The strictly fiscal character of the tax in England and the strictly confidential mode of collection make the use of it as an instrument of party gain or political annoyance impossible. But it had not been in existence very long before a couple of political partisans of the lowest order were sent out by the treasury to act as itinerant spies to ferret out cases of non-payment or insufficient payment, and they began incontinently, as might have been expected, to levy "blackmail" both on men who had made incorrect returns purposely, and on men who knew they might innocently have made incorrect returns and were frightened by the possible consequences of their neglect or oversight.

It must be observed, also, that England is, *par excellence*, the country of fixed incomes—that is, of incomes derived from

safe investments. The number of persons living on such incomes drawn from the public funds, home or foreign, from rent charges, from mortgages, from farm rents and railroad shares, and varying little if any from year to year, is large in proportion to the number of those who draw their incomes from what we call "active business," or professional gains, to a degree of which Americans have little idea. England is a country of enormous accumulated capital lent out in every direction all over the world, the yield of which supports a vast body of persons in complete or partial leisure. Among us this class is comparatively very small. Nearly every American is in a greater or less degree a trader or speculator, and is "turning over" his capital, if he has any, in some enterprise of varying degrees of profit. The sphere of an income tax in England is accordingly very large, and the making of returns very simple. Variations in a man's income from year to year are comparatively rare, and when they occur are comparatively easy to account for and set forth. Here, on the contrary, the sphere is very small, as is shown by the present expectation of the west and south that they will escape the incidence of the tax altogether, and by the ridiculous fact that when it was levied, and incomes under \$2,000 exempted, it was only paid by 150,000 persons out of a population of 40,000,000. The sources from which an American who has more than \$2,000 a year draws his income are apt to be various, and the yield of each to change from year to year in a way unknown in older, more cautious, and less enterprising communities; and this not only makes it hard for honest men to make accurate returns, but makes concealment or evasion easy for dishonest men.

Nation. 57: 404-5. November 30, 1893.

Proposed Income Tax.

Such a tax was imposed during the war, and it was continued some years after the war, while the national finances were in an unsettled and strained condition. As soon as it

was found that the tax could be spared without danger to the public credit, it was repealed, but this proves nothing as to the rightfulness or the fiscal expediency of the tax. The repeal may have been due to the fact that the classes who had to pay it were the most influential at Washington, while those who did not have to pay it cared nothing about it one way or the other. Governments generally yield to the strongest pressure, and this may have been the case with regard to the income tax. The idealogues offered little resistance to the repeal at that time. In fact, the amendments that had been engrafted on the tax from time to time had left it in such a tattered condition in 1872 that it yielded little more than the cost of collection. Its history may be recited.

It was first enacted in 1861, and the rate was fixed at 3 per cent. on all incomes over \$800. No machinery existed for collecting it and before any had been provided Congress changed it. Under the act of 1862, all incomes over \$600 and under \$5,000 were taxed 5 per cent., over \$5,000 and under \$10,000 $7\frac{1}{2}$ per cent., over \$10,000 10 per cent. Certain deductions were allowed in estimating income, such as house rent actually paid and other taxes actually paid, whether national, state, or local. In 1864 a special tax of 5 per cent. was levied for one year, this being additional to the regular income tax. In the same year the rate was raised so that all incomes above \$5,000 paid 10 per cent. In 1865 the first change was made in the direction of lowering the tax. This was done by raising the exemption from \$600 to \$1,000, and making the tax uniform at 5 per cent. In 1870 the exemption was raised to \$2,000 and the rate reduced to $2\frac{1}{2}$ per cent. In addition to this change it was provided that all business losses sustained during the year, and all interest paid on loans, and all money paid for labor to cultivate land and for rent and repairs of premises actually occupied might be deducted in estimating incomes. Under these sweeping changes the revenue derived from the tax fell to \$19,000,000 in 1871 and to \$14,000,000 in 1872. The maximum reached in any single year (\$73,000,000) was in 1866. This was the year of the "double income tax"—the year in which the bulk of the special tax enacted in 1864 was collected. When the proceeds

of the tax had fallen below \$20,000,000, it was deemed useless to continue it longer. It expired in 1872, and it was believed then that no occasion short of a war of great magnitude would ever justify its reenactment.

The justice of an income tax if it could be fairly and honestly collected does not admit of doubt, but the objections to it are the same in kind as those which lie against the personal-property tax. It cannot be collected with fairness and equality. The taxpayer must coöperate with the collector in order to ascertain the income. Consequently only the very conscientious people pay their rightful share. The practical attempts to collect a personal-property tax in the several states have been uniformly futile—the amounts realized being ever on a dwindling scale. There is no reason to suppose that the results of an income tax would be in any wise different. The revenue derived during the war is no criterion whatever. At that time the taxpayers generally coöperated with the collector zealously. Public opinion compelled them to do so. The nation's life was at stake. Those who were not in the field felt a double obligation to supply the means to support those who were there.

No such conditions exist now. Hence there is every probability that the taxpayers would adopt the same old *modus vivendi* the impost that they employ in avoiding the personal-property tax levied by the states. In other words, the tax would be a vastly unequal one in practice, its burden falling chiefly on those who were too honest to shirk it.

Nation. 71: 197. September 6, 1900.

English Income Tax.

A tax on income was levied under Pitt, at the end of the last century (1798), and assumed its present form early in this century (1803). As a war tax, it continued to be levied until the end of the Napoleonic wars, when it was discontinued, to be revived by Sir Robert Peel, in 1842, "partly to provide for a deficit in the budget, and partly to enable him to make cer-

tain reductions and reforms in the complicated system of protective import duties." In spite of "complaint on the part of taxpayers and adverse criticism by statesmen, politicians, and writers on finance," and in spite of efforts on the part of the early chancellors to avoid continuing the tax, it has been renewed from year to year for more than fifty years, the rate being adjusted to current needs; and it is to-day, "although still, in form, a temporary tax, requiring for its continuance an annual renewal by act of Parliament, in all probability as firmly established and as permanent as any part of the revenue system." The tax yielded approximately \$90,000,000 in the year 1898-99, and Dr. Hill is led to observe, regarding it, that, "besides constituting an important part of the permanent or ordinary revenues, the tax has repeatedly proved to be a valuable resource for an emergency; through its instrumentality, more than one chancellor of the exchequer under conditions of more or less difficulty, has succeeded in maintaining that close adjustment of revenue to expenditure which the excellent traditions of the English system of finance required of him."

Although the general principle of progression is nowhere recognized, the tax, in its practical working, is, in consequence of certain abatements and exemptions allowed, progressive on all incomes of £700 or less. Incomes of £150 are altogether exempt from taxation. On incomes of from £150 to £400, an abatement of £160 is allowed; and on incomes of £400 to £500, an abatement of £150; £500 to £600, an abatement of £120; £600 to £700, of £70. As a consequence of these abatements and exemptions, a tax of 8d. in the pound is graduated on incomes below £700 by an easy progression from complete exemption on incomes below £150 to an amount equivalent to a tax of $3\frac{1}{3}$ per cent. on the total income, where the income is above £700. The allowance of exemptions and abatements of the tax on small incomes involves a knowledge of the amount of the tax paid by the individual as well as of the amount of his property or income. Under any system of indirect taxation the amount ultimately paid by the individual cannot be determined or regulated; and consequently no abatement of the tax can be made.

The obscurity attaching to the incidence of all forms of in-

direct tax, while it facilitates the payment of taxes and avoids friction, has, nevertheless, one unfortunate consequence in that it breeds popular indifference to the action of legislative bodies in voting away public moneys for miscellaneous purposes. The cost to the taxpayer is obscured by indirectness in the assessment of the tax. This tendency to extravagance is one of the chief dangers attaching to indirect forms of taxation. It is fostered in the popular indifference regarding the employment of public revenues. Considering the services performed by his government, an American pays more out of a given income than he would have to pay were he living under any one of the European governments. He delights in free, extravagant, even wasteful, expenditures; delights to see public works undertaken, wages paid freely for incompetent service, and men employed in great numbers as needless supernumeraries—because all this seems to occur at nobody's expense. An equitable assessment of direct taxes, in a form which should enable each citizen to estimate the cost to him individually of this lavishness, would constitute a wholesome check upon public disbursements. The taxpayer needs to feel that he ultimately earns the wages paid out to idle supernumeraries in the employ of the government. If the tax could be levied upon him directly in a lump sum which should increase with the extravagance of the government, the inconvenience of paying it would undoubtedly dissipate his indifference to its amount, and so arouse in him a keen interest in true economy.

In England, taxpayers have always guarded jealously the right of the government to assess taxes upon them, keeping careful account of amounts granted to the Crown, and requiring careful account of their expenditure. English practice and experience are particularly instructive on this point. There is no confusion regarding the sources of public revenues, no confusion of taxpaying with subsidization of industry, no effort to wield the tax-levying power as a means of disbursing political favor, or as a means of keeping wages high. These notions have been outgrown. The English taxpayer regards the payment of a tax as a reduction of his personal income, and looks to receive an account of its expenditure.

New Englander. 54: 39-43. January, 1891.

Shall We Have an Income-Tax? George A. Butler.

Mr. J. S. Mill, who has contended so ably for the soundness of the principle of an income-tax, says that the amount required for the necessities of life, say one hundred pounds, should be exempt from taxation; that necessities above the limit fixed should be taxed in proportion to the surplus by which they exceed the limit; that all sums saved from income, and invested, should be exempt from the tax; "or if this be found impracticable, that life incomes and incomes from business and professions, should be less heavily taxed than inheritable incomes, in a degree as nearly as possible equivalent to the increased need of economy arising from their terminable character; allowance being also made, in case of variable incomes, for their precariousness." He defends the exemption of any sum from the tax, only on the ground that almost all the indirect taxes press more heavily on incomes between £50 and £150.

North American Review. 130: 236-46. March, 1880.

Communism of a Discriminating Income-Tax.

David Ames Wells.

All modern systems of income taxation have recognized the principle of discriminating in favor of persons in the receipt of comparatively small incomes; and have provided, as a fundamental feature of their policy, that all incomes below a certain sum (usually a small amount) should be exempted from assessment. Thus, for example, the existing income-tax of Great Britain commences with its assessment on incomes of £150 (\$750) and upward, and exempts all incomes of a smaller amount. In Germany, the income exemption being very small, nearly the whole population of the country, male and female, are made subject to the provisions of the income-tax. All incomes subject to taxation in any European country are invariably assessed

at one and the same rate. In the United States, on the other hand, the income-tax, as first enacted in 1863, exempted \$600 annual income for each person, together with whatever was paid annually for rent and repairs of residence. *Five* per cent. per annum was then levied on all incomes above \$600 and not in excess of \$5,000; *seven* per cent. on all incomes above \$5,000 and not in excess of \$10,000; and *ten* per cent. on all incomes in excess of \$10,000. In the income-tax of the United States as it existed at one period, there was, therefore, recognized the principle, not only of exempting incomes below a certain amount from all taxation, which amount, in order to keep up an appearance of equity, was allowed to be equally deducted from all larger incomes; but, in addition, the further one—not recognized in any other existing income-tax—of graduating the assessment by increasing the rate or percentage of taxation on the larger incomes. This system was accordingly exceptional and peculiar; but as on first presentation and superficial examination it seems to embody an ingenious and equitable method of equalizing the burdens of the state between the rich and the poor, and also finds special favor with persons of a communistic turn of mind, by whom, with the discriminations largely increased, it is frequently recommended for reënactment, it is proposed in the interests of political and economic science to here subject it to analysis, with a view to determine whether any income-tax, which discriminates in any degree, is likely, as is often claimed, to constitute the one perfect form of taxation of the future. And, at the outset, attention is asked to the following proposition:

Any Income Tax Which Permits of any Exemption Whatever is a Graduated Income-Tax.

Any form of income-tax which permits of exemption is graduated, not by the rate of the tax, but by the amount of the exemption, which is equally effective in producing discrimination and inequality, because all incomes below an arbitrary line are entirely exempt from the tax. Again, in treating of an income-tax, it should be always borne in mind that, when a

government *taxes the income of property*, it in reality taxes the property from which the income is derived. In England and on the continent of Europe land is taxed on its yearly revenue or income value, and these taxes are always considered as land-taxes. Alexander Hamilton, in discussing the taxation of incomes derived directly from property, used this language: "What, in fact, is property but a fiction, without the beneficial use of it? In many instances, indeed, the income is the property itself." (Hamilton's "Works," vol. iii., p. 523.)

If the law exempts from taxation income from property to the extent of \$2,000, it in effect exempts property of the capital value of \$50,000 from taxation; for at present four per cent. is about the average profit of money, land, or other property, over and above all charge and taxes; and, at that rate of profit, \$2,000 will be the annual income value of \$50,000. Furthermore, if we assume that the annual income of realized property is *four* per cent., that the exemption to each person is \$2,000, and that the rate of the tax is *five* per cent., then a person who owns only \$50,000 in value of property will pay no tax; he who owns \$60,000 in capital value of like property will pay on its entire income 1.2 per cent., or five per cent. on the income of the capital value in excess of \$50,000; he who owns \$100,000 of property will pay on its income $2\frac{1}{2}$ per cent.; while he who owns \$250,000 of property will pay on its income four per cent., and thus the tax will be, in effect, graduated in rate and continually approximating, but never quite reaching a rate of *five* per cent.—the property paying income being assumed to be always of the same and competing class. In the case of the recent income-tax of the United States, the number of persons who paid this tax, when the exemption (in 1868) was \$1,000, was 259,385; and, when the amount of exemption was raised to \$2,000, the number of taxable persons was reduced to 116,000, and subsequently ran down to 71,000 out of a total population of about 40,000,000. Experience, therefore, demonstrates that an exemption in the United States of \$2,000 of income, accredited to each individual owner of property, will exempt *more than nine tenths of the entire property* of this country and *more than ninety-nine hundredths* of the property-owners from this

tax. Under such circumstances, it is a misnomer to call such an exaction taxation. It is unmasked confiscation, and a burlesque on taxation. Nor can an income-tax which exempts \$2,000 of income be defended under any rule or doctrine of *de minimis*, or rejection of fractions, for the property and income exempted are infinitely greater in the aggregate than the property and income of the same class made subject to the tax. Under this form of an income-tax there can be no equality between taxed producers and untaxed producers, and more especially as the untaxed producers will be the most numerous, and the greatest producers in quantity as a body. No man is a free man the fruits of whose industry and capital are subject to surcharged (overburdened) exactions to an unlimited degree, and from which his immediate competitors are entirely exempt. Equality of taxation of all persons and property brought into open competition under like circumstances is necessary, to produce equality of condition for all, in all production, and in all the enjoyments of life, liberty, and property. Any government, whatever name it may assume, is a despotism, and commits acts of flagrant spoliation, if it grants exemptions or exacts a greater or less rate of tax from one man than from another man on account of his owning or having in his possession more or less of the same class of property which is the subject of the tax. M. Thiers, in his work on the "Rights of Property," thus forcibly condemns confiscation under the name and form of a graduated income-tax: "Proportionality," he says, "is a principle, but progression is a hateful despotism. . . . To exact a tenth from one, a fifth from another, and a third from another is pure despotism—it is robbery." If it were proposed to levy a tax of 5 per cent. on annual incomes below \$2,000 in amount, and to exempt all incomes above that sum, the unequal and discriminating character of the exemption would be at once apparent; and yet an income-tax exempting all incomes below \$2,000 is equally unjust and discriminating. In either case the exemption can not be founded or defended on any sound principles of free constitutional government. It is a simple manifestation of tyrannical power, under whatever form of government it may be enforced.

*A Graduated Income-Tax, to the Extent of its Discrimination,
is an Act of Confiscation.*

The federal Constitution further provides that private property shall not be taken for public use except upon compensation. It is conceded that this is a limitation on the power of Congress. There must be a line between the taking of private property for public use and taxation; but how can that line be drawn except by the rule that taxation means uniformity of burden on competing avocations and competing property? A recent decision of the Supreme Court of New Jersey seems to be direct upon the unconstitutionality of discriminating burdens on the same class of persons or property. Thus the New Jersey Court said: "A tax upon the person or property of A, B, and C, individually, whether designated by name, or in any other way, which is in excess of an equal apportionment among the persons or property of the class of persons or kind of property subject to the taxation, is, to the extent of such excess, the taking of private property for a public use without compensation. The process is one of confiscation and not of taxation." ("Township Committee of Reading," 36 N. J., p. 66, 1872; see also "Cooley's Constitutional Limitations," §§ 490-515; "Durach's Appeals; 62 Pennsylvania State Reports.")

It only remains, to complete this argument, to consider what is meant by property of the same class. The answer to this is, obviously, property which immediately or directly competes in open market. The force of competition is not dependent upon the quantity owned or produced by few or many persons, but upon the aggregate quantity of similar property offered in market, whether produced or owned by few or many persons.

It may also be pertinent in conclusion to say that two thousand dollars is a larger exemption than has ever been allowed in any income-tax system in any country except the United States; where owing to comparative equality of fortunes, the exemption, if any exemption is to be permitted, should be extremely low. Wherever the line of exemption may be drawn, an act of discrimination is instituted against all those who own property producing income in excess of the line of the exemp-

tion. In England, where business, to a greater extent than in any other country, is conducted by large capitalists, where the soil is owned by a comparatively few persons, and where the entire property of the nation is greatly concentrated, an exemption of seven hundred and fifty dollars, under the income-tax there allowed to each person, is of much less practical importance than a similar exemption would be in the United States, where it would remove a large portion of all incomes derived from property from the burden of the tax. In France, owing to the very great and minute subdivisions of the ownership of the soil, a small exemption would also take from the income list a large proportion of the owners of real estate in that country. Leroy Beaulieu, indeed, estimates that an exemption of twenty-five hundred francs (five hundred dollars) would exempt from three fourths to four fifths of the entire income of France; and accordingly, when in 1848 the enactment of an income-tax was debated in France, it was proposed to put the exemption as low as two hundred and fifty francs, or fifty dollars. Any judicious system of taxation in any country will have reference to its natural products; its extent of territory; its contiguity to competing nations; the density or sparseness of its population, the habits of the people, and the comparative equality of their fortunes. The United States can conveniently, economically, and uniformly collect its revenues from a few domestic articles, like whisky and tobacco, manufactured in large amounts at one place by one person or firm; and on imports, like sugar, tea, and coffee, introduced into the country, to a great extent, in large vessels and in large quantities at a few ports. With the limitation of our revenues to such few sources, economy of assessment and collection will be insured, unnecessary inquisition and loss of time—a form of unproductive taxation—will be avoided, and only a comparatively few persons will feel the direct hand of the tax-gatherer; while all will cheerfully pay taxes in regulated prices on their expense and consumption, where, by the operation of natural laws, all taxation must finally rest.

But any attempt to collect an income-tax, which is equal and has none of the features of spoliation or confiscation, from

our sparse population, extending from Florida to Alaska, is entirely unpractical; and, unless the rate is excessive, the taxes received would not pay the cost of assessment and collection, while, as before shown, the rights of property, the great republican principle of equality before the law, and constitutional law itself, will alike preclude any exemption of any income derived from like property. It is a vital and constitutional question, demanding absolute equality, that is here involved and at stake. Any exemption whatever, small or great, except to the absolutely indigent, is purely arbitrary; and the principle, once allowed, may obviously be carried to any extent. Any exemption of any portion of the same class of property or incomes is an act of charity which every American ought to reject upon principle and with scorn, except under circumstances of great want and destitution. Equality and manhood, therefore, demand and require uniformity of burden in whatever is the subject of taxation.

North American Review. 158: 1-7. January, 1894.

Income Tax on Corporations. William L. Wilson.

The theory of the income tax is a just theory, and has the approval of leading economical writers. Its trial in this country throws little light upon its practical operation, for it lived too short a time, and was too often changed to become a familiar and workable part of our fiscal system. Its early repeal was carried by a very narrow margin in both houses, which would not imply that it was specially unpopular. Senator Sherman was among these stoutly opposing this repeal. In a speech made in the Senate in May, 1870, he declared it "the most just and equitable tax that is now levied in the United States of America, without exception." Equally strong words of approval were spoken in the House by General Hawley, of Connecticut, and Mr. Kerr, of Indiana.

The place of the income tax in the English system has been stated by Mr. Noble, in his "National Finance," as follows:

"The enormous service which it has rendered in the liberation of trade from a multitude of onerous and oppressive burdens has been already referred to; its existence has rendered possible the great reform of our system of indirect taxation which has been the foundation of our modern commercial progress. It has the transcendent merit over duties of customs and excise, that it does not interfere with the processes of industry or the course of trade, and that the whole amount which it costs the taxpayer is devoted to the service of the state. It is, at present, almost the only impost by means of which any substantial contribution is levied from the increasing wealth of the country; and its repeal without any effective substitute would aggravate the pressure of taxation upon those classes which are least able to bear the burden. It has its inequalities, but they are by no means so flagrant and unjust as the inequalities of indirect taxation."

But despite these strong arguments in favor of an individual income tax, and the unquestionable equity of its general theory, there are very grave counter-reasons which rise up before a legislature who seeks to embody it into our federal tax system. Aside from the very natural objection of those who might have to pay such a tax, its administration is necessarily accompanied by some exasperating and some demoralizing incidents. Our people have so long and so generally been free from any public scrutiny into their personal incomes and even from any personal contact with federal tax collectors, that they resent the approach of either. Moreover, like the personal property tax, which is so universally evaded, a personal income tax would easily lend itself to fraud, concealment, and perjury, and prove, as Mr. Mill said, a tax upon conscience. And finally, in a country of the large geographical dimensions of the United States, it would be difficult to put into smooth and effective working order the necessary machinery for its thorough collection.

It is not, in my judgment, however, liable to the charge that it is class taxation. Taxes upon consumption are taxes upon the poor, and it is one of the capital enormities of our present tariff laws that they place the chief burden of supporting the federal government and of paying pensions upon the labor of the country. The balance of taxation ought to be weighted by some taxes drawn from the property of the country.

North American Review. 190: 615-27. November, 1909.

Relations of State and Federal Finance. Edwin R. A. Seligman.

If there is anything that may be considered a well-settled induction from experience, it is that an income tax is more and more unsuccessful as the basis of the tax becomes narrower. In former times a local income tax was fairly workable because incomes were chiefly local in their nature. In modern times, however, the income of the taxpayer, and especially the income of the larger taxpayer, has very little to do with the locality in which he happens to live. Nay, more, incomes nowadays, through the working out of economic forces, have become national and international in character and at all events have far transcended state lines. A man may live in one state and may secure his income partly from real-estate holdings situate in another state and partly from investments in securities of corporations whose earnings are derived in many other states. How is it possible for any local or state administration successfully to ascertain or adequately to control such income of its resident citizens? The state income taxes in the United States are largely for that reason the veriest farces, and under present economic conditions can never become anything else. If we are to have an income tax of any kind that is at all in consonance with fiscal principles, it must obviously be a federal income tax rather than a state income tax. For in no other practicable way shall we be enabled to avoid the numberless complications of interstate double taxation which would assuredly render nugatory any attempt to introduce a state income tax.

So far as considerations of revenue are concerned, it can scarcely be contested that the income tax is unnecessary for federal purposes. Federal revenues in the past have in normal times been derived almost entirely from custom duties and internal indirect taxes. There is no reason why these sources should not suffice for the future. Without entering here upon the general question of the protective tariff, it may be confidently asserted that we can continue to secure a large and

growing revenue from import duties whether the principle of protection be upheld in its integrity or not. Either a revenue tariff with incidental protection or a protective tariff with incidental revenue can be made to yield the desired income. And when we consider the immense population in the United States, it is beyond all question that even a simple system of indirect taxes will suffice to raise the remainder of the needed revenue. The internal revenue, exclusive of the income tax, yielded at the close of the Civil War almost \$300,000,000 a year, and if we take into account the prodigious increase in wealth and in consumption during the forty years that have elapsed, it will be apparent that the internal revenue system of the United States might be made to yield to-day many hundred millions of dollars more than it actually does without even approaching the number of taxes or the rate of taxation that existed during the Civil War. It is quite safe to say that so far as we can look into the future the prospective expenditure of the United States may be readily and easily supplied by import duties together with a well-chosen system of light internal revenue taxes.

(A national income tax, therefore, is not needed for revenue purposes. Nor is the demand for a national income tax based upon such reasons. The argument in its favor, however, is none the less exceedingly strong. If not needed for revenue, it is needed for justice. This is due to the complete breakdown of the general property tax in state and local finance. Under the existing state and local systems there is no doubt that we are unable to reach the possessors of large fortunes. The wealthy man stands from under, not necessarily because he commits perjury, but because the loopholes in the general property tax have become so numerous that any adroit individual can avail himself of them. A federal income tax is justifiable on the score of equity under prevalent American conditions.)

I would here, however, sound a note of warning. It must not be imagined that a federal income tax would at once work well. The experience of Germany and even of England must not lead us astray. We have neither the administrative machinery of Prussia nor the methods of doing business which are found in Great Britain. The lump-sum, or direct, income tax of

Prussia would be hopeless in this country; the schedule, or indirect, income tax of Great Britain would meet with great difficulties in its application here. It has taken England half a century to work out the problem of its income tax and to make it fairly successful. It would take us, perhaps, almost as long to make even a federal income tax an administrative success. Thus those who hope for a fiscal or a social panacea in the federal income tax are bound to be woefully disappointed. Moreover, if introduced into this country, an income tax measure must be framed with the most extreme care on the lines far different from those of 1862 and 1894.

One final advantage of the federal income tax which must not be overlooked is that it would render far easier the struggle that is going on in our various states to amend or to abolish the iniquitous personal property tax. The taxation of intangible personalty has become a byword and a reproach to our American public life. All efforts to reform the system of the general property tax have thus far shattered against the rock of popular conviction that such wealth as consists of personal property ought not to be allowed to escape. If now we were to have a federal income tax, however unsuccessful it might be at first, it would take the wind out of the sails of these objectors; and the would-be reformers of the system of local and state taxation would no longer be met by the contention that personal property must be listed for taxation. For personal property would then be reached through the federal income tax. It is most significant that in Great Britain personal property was entirely exempted from all local taxation in the very same decade that the national income tax was imposed.

Our conclusion would then be that so far as the income tax is concerned, even though it be not needed for purposes of revenue, it is nevertheless a desirable adjunct to our scheme of federal taxation. It goes, of course, without saying that even apart from this question the projected constitutional movement, legalizing the income tax, ought to prevail. For even if the income tax were not to constitute a part of our normal revenue system, it would be deplorable in the extreme if a mighty empire like the United States were unable to use this potent engine of revenue in time of need.

Outlook. 85: 503-8. March 2, 1907.

Income Tax: A Study of its Advantages and Disadvantages as
a Form of Federal Taxation. Philip S. Post.

The income tax: Is it the fairest and most equitable tax ever devised, or is it the most odious and generally condemned mode of taxation resorted to by any nation?

Twice Congress has enacted an income tax, the first in 1862, and again in 1894. The act of 1862 was a war measure, passed at a time when Congress was seeking to drain every available spring of national revenue. With the public mind engrossed with the fate of armies, the tax was adopted without any widespread discussion. Its constitutionality was upheld, the Supreme Court perhaps unconsciously feeling the imperious demand of the war that in no wise should the arm of the government be weakened. The rates varied from three to ten per cent. The law was repealed in 1871.

On August 18, 1894, Congress again enacted an income tax. Before it had become generally operative, the Supreme Court, by a vote of five justices to four, declared the law unconstitutional. It is noteworthy that its enactment had not been preceded by any general debate among the voters. The income tax was not an issue in the campaign of 1892, and the country had no serious reason for anticipating that the Congress then being elected would enact such a statute. The public interest awakened by its passage soon died away, the adverse decision of the Supreme Court having apparently removed the question from the realm of national politics. To this place it has been reinstated by the recommendations contained in President Roosevelt's annual message.

If the United States is again to adopt the income tax, it is most desirable that Congressional action should be preceded by a full and thorough popular debate as to its merits. This is desirable with respect to all important enactments. It is peculiarly true as to this proposed tax, which, more than any other tax known to governments, requires for its success and effi-

ciency the support of a well-informed and thoroughly convinced public opinion.

It has seemed fitting, therefore, to present a study of the advantages and disadvantages incident to this form of taxation.

The advantages. The income tax, say its advocates, is "the fairest and most equitable tax ever devised." In the earliest times taxation lacked equality. A tax was either a gift regulated by the generosity and loyalty of the members of the clan, or an extortion limited only by the power and rapacity of the ruler. Through the rude equity of the poll tax, falling alike upon every male subject, by successive stages more equitable standards have been reached, until there is now a general acceptance of the maxim that income is the most equitable test by which to measure the amount that the citizen ought to contribute to the support of the government that shelters him. "To arrange a system of taxation which shall correspond as closely as possible to the net revenue of individuals and social classes, and which shall take into account the variations in taxpaying ability, has thus become the demand of modern civilization."

In the light of the historical development of taxation, it is argued that income should appear to the lawmakers of progressive states a sound basis for the imposition of public burdens. There is an evident equity in this standard. Clearly it is the duty of the citizen to support the government in proportion to his capacity to support himself. The test may not be absolute; but in what truer scales can be measured the distribution of these burdens? It is confidently asked, What can be fairer than that each citizen should annually contribute a just portion of his net income for the support of the government or state under which he has elected to live, and in default of which he would not be likely to have either gain, income, or property? Cumulative testimony supports the allegation that the income tax is one of the most equitable, productive, and least objectionable forms of taxation, and that it accords in the highest degree with those canons or maxims which are regarded by nearly all economists and jurists as the highest embodiment of human wisdom on the subject.

Thus the broad claim is made that the income tax is the fairest of all taxes; that it tends to relieve the poorer classes and places the load upon the shoulders of those best able to bear it; that even for persons of large means it is advantageous; that the private revenue of an individual, by reason of trade conditions, varies greatly—in some years he may make much, in other years, without any appreciable change in the amount of his property, his income may be trifling; that whereas the general property tax mercilessly demands its due regardless of the year's profits or losses, the income tax accommodates itself to the varying condition of the taxpayer, bears lightly upon the business man who is struggling to keep his head above water, and postpones its heaviest call until the year of plenty.

The tax is in this regard the protector of legitimate business. The prediction has been ventured that its substitution for the usual property taxes would save many a man from bankruptcy. Unlike license taxes, it does not make it difficult for the man of small capital to begin business; unlike the personal tax, it does not levy toll upon a stock of merchandise from which, because of financial depression, the owner is perhaps deriving no profits; unlike the real estate tax, it does not increase the rent charge of every store and factory, whether succeeding or failing. The tax on incomes wisely and mercifully regards the present ability of the taxpayer, relieving him in adversity and participating in his prosperity.

The income tax has the further claim of reaching certain professional classes who under existing laws largely escape taxation. Their gains are great; they live comfortably and even luxuriously; they provide for their families by life insurance or other untaxed investments; yet they contribute not to the state under whose protection they thrive. This, it is said, is a financial injustice to the other classes who do pay; and, more, it is harmful to the commonwealth itself. It creates a group of persons—often well educated, with opportunities for information and leisure for public service—who, because they pay nothing to the state, become indifferent to the duties of citizenship. They feel no direct monetary concern in the business of the state.

They disdainfully disavow any interest in politics. Whatever contribution they make is the result of indirect taxation, and this is paid unconsciously. The exact amount contributed by any citizen because of the internal revenue and customs duties is unknown and unascertainable. There would be a social and political value to the country in a federal tax under which every citizen would consciously pay a definite sum. Such payment would induce a more careful scrutiny into civic affairs, and would tend to awaken that direct and universal interest in public administration which is the safeguard of democratic government. This would be followed by more orderly methods of business on the part of individuals. Men would keep stricter accounts. They would know how they stand themselves, and financial failures due to ignorance and lack of method would be lessened.

A general tax levied upon the net income of individuals has this great recommendation: it has no tendency to disturb prices. In this it differs from certain other taxes, which, being laid on consumption, influence prices and affect markets and values. It is contended that all such taxes fall most heavily upon the poor; that whenever the levy is made, not on the basis of the amount received, but on the basis of the amount consumed, by the taxpayer and his family, it is a scheme of taxation which, of necessity, rests with disproportionate weight upon the masses of the people; and that "this flagrant injustice to the poorer class of contributors" can be compensated for only by an income tax in which small incomes shall be entirely exempt.

In this view the tax ceases to be merely a mode of raising revenue, and becomes an instrument of tremendous social and economic importance. Equality of taxation should be the first purpose of every well-ordered body politic; and it is confidently claimed that equality of taxation is impossible in any community without the income tax; that it is a measure by which to prevent certain kinds of property from obtaining "a position of favoritism and advantage inconsistent with the fundamental principles of our social organization;" that it is the only protection that the American people have against "the dominion of

aggregated wealth;" that the great problem before the statesman is not how to obtain money for official expenses, but how to employ the taxing power so as to curtail riches and produce a more equal level of private possessions; that conditions in the United States call for the application of what is termed the Jeffersonian doctrine, that an equality of wealth must be preserved among the people "by taxing large wealth heavily, smaller wealth lightly, and least wealth not at all;" that this can be accomplished by a tax on gains and profits so framed that it will not touch the smaller incomes, but will lay a vigorous hand upon the annual receipts of the rich. It is proclaimed that the income tax is alone capable of producing these equalizing results; that justice and wisdom demand its adoption; and that it will prove not a burden but a benefit to the republic.

Considerations such as these have developed a strong tendency all over the world to employ this tax as a means of raising a portion of the public moneys. Its sponsors point with assurance to the fact that it has proved a satisfactory source of revenue in the countries where it has been adopted; that when once placed on the statute-books it has generally been continued and extended; that the difficulties of collection have been found to be exaggerated; and they contend that the experience of nations like England and Germany, and the increasing use of the tax by civilized states, form the best and most conclusive evidence in favor of its wisdom and efficiency.

The disadvantages. The critics of the income tax—with a positiveness equaling that of their opponents—hurl back the assertion that it is "the most odious and universally condemned mode of taxation resorted to by any nation;" that, in spite of its theoretical justice, it has generally failed in its actual operation; that, however fair and alluring its principles, in practice it has been found to be unequal and unjust, undemocratic in spirit, inquisitorial in method, debauching to the public morals, the parent of perjury, the burden on the back of industry, an assault upon property, and a step toward communism.

There can be no denial that the income tax is unpopular. It is immediate, undisguised, personal taxation; and against

this human nature always has, and probably always will, rebel. It meets violent opposition where indirect taxes are cheerfully borne.

A salient cause for this repugnance lies in the fact that the tax invades the right of privacy. If it is to be efficiently enforced, every person must lay bare the details of his property and business. Every item of his private transactions, whether entirely personal or in connection with others in situations of the most sacred trust, is subject to exposure. His financial strength becomes the object of envy; his weakness is told to his competitors, and becomes the sweet morsel of a gossiping public. The tax engrafts the spy system on the arm of the government, and in its train comes a horde of impertinent revenue officers. In its administrative features it answers Samuel Johnson's choleric definition of the word excise as "a hateful tax."

A tax which is offensive to the citizen and which he regards as unreasonably oppressive is necessarily difficult of collection. Evasion is its legitimate child, and evasion must be followed with methods of collection constantly increasing in harshness and stringency. As the Roman tax-gatherer found in torture a frequent aid in discovering concealed property, so agencies in their nature arbitrary and inquisitorial must be used in the collection of this impost.

These methods and agencies find scant welcome in democratic countries. They belong essentially to despotic governments, and are peculiarly unsuited to republican institutions. This revenue cannot be collected unless the tax-gatherers have the power to compel the production of the private books and papers of the citizen upon which to base the assessment. This is a power which the legislature will hesitate to confer, and which, if given, will prove of doubtful efficiency. "It may suit the purposes of despotic power, but it cannot abide the pure atmosphere of political liberty and personal freedom."

The taxation of incomes invites fraud, deception, and dishonesty. Mr. Gladstone said that an income tax made "a nation of liars," and that nothing does more "to demoralize and corrupt the people." Practically, it is not an equitable tax on in-

comes, but rather a tax on "ignorance and honesty;" only those pay their full proportion who have not learned the methods of evasion, or, knowing the means, are too honorable to use them. It allows a man in failing condition to report a fictitious income, and thereby impose upon the business world; while the actual recipient of large gains conceals them to avoid the tax.

Before adding to its system this tax which demands either universal honesty or universal espionage, the country should listen to the overwhelming testimony against the personal property tax as now attempted to be enforced by the various states. Tax commissions have declared that the system is "debauching to the conscience and subversive of the public morals," that "it puts a premium on perjury and a penalty on integrity," and that "the attempt to enforce these laws is utterly idle." If the assessment of personal property is subject to such difficulties and evils, what will be the extent of the perjuries and public demoralization under an attempt to enforce an income tax? The statistics of revenue collected during the Civil War tell a graphic story. In 1869, with all incomes in excess of \$1,000 subject to the tax, only 250,388 persons out of 37,000,000 acknowledged the receipt of any taxable incomes. It has been stated that only officials connected with the treasury department can form any adequate idea of the amount of perjury and fraud which pervaded the country from 1867 to 1872, and that American ingenuity was never more strikingly illustrated than in devising methods for evading taxes.

The impositions of the state should interfere as little as possible with industrial activity. No needless check should be laid upon the hands engaged in the beneficial work of adding to the aggregate of the national wealth. This principle the income tax ignores and violates. It is a tax on brains, enterprise, and industry; on mind and energy. It is an encouragement to shiftlessness and idleness. It punishes the active and frees the indolent. It exacts a contribution from the worker at the time when every dollar of capital may be most vitally needed in the building of his business.

As was recently said by Andrew Carnegie; "This nation

will never regret anything so much as attempting to collect a tax from men engaged in business—bees making honey for the national hive.”

For a century constructive statesmen have sought to add to the nation's progress by encouraging manufactures and inviting the investment of capital. It is worth while to consider the effect which an income tax would have in nullifying these efforts. The modern movability of capital must be taken into account. As water seeks its level, so capital seeks those fields where it is least hampered by exactions. Would not a progressive income tax—even though moderate and managed with the utmost circumspection—lead to an enormous transfer of American capital to other lands?

The tendency of income tax legislation to enlarge the class of exempt persons is noticeable. The law of 1862 at first relieved incomes under \$600, then under \$1,000, and later under \$2,000, while the law of 1894 freed all incomes under \$4,000. The exemption of all save the larger incomes seems now to be an inherent attribute of the tax. It is surely its most popular and attractive feature. This, it is submitted, is essentially class legislation. It differs not in real character from the English statute of 1691, which taxed Protestants at a certain rate, Catholics at double the rate of Protestants, and Jews at another and separate rate. All such discriminations, as a logical outcome, lead to oppression and abuses, and general unrest and disturbance in society. The plain duty is before every citizen to contribute his proportion, however small the sum, to the support of the government. It is no kindness to urge him to escape from this obligation. In giving his mite he will have a greater regard for the government and greater respect for himself. The humblest subject should not be put in the conscious position of a pauper of his government.

It is startling to consider the effect which an exemption of \$4,000 has in transferring the burden of this tax upon an infinitesimal portion of the population. In democratic countries, where every citizen has a vote regardless of property, there is naturally a strong temptation to shift the load of governmental

revenue upon the shoulders of the wealthy few. There is a sinister significance in the extent to which Congress yielded to this temptation in 1894. An income of \$4,000 at five per cent. represents a fixed capital of \$80,000. Thus this law rejected as objects of taxation every citizen whose taxpaying ability represented \$80,000 or less. It compelled less than two per cent. of the taxable inhabitants to contribute ninety-five per cent. of the entire tax. Commenting on these figures, Senator Edmunds, with fine scorn, exclaimed: "And this we call a free government—a government of equal protection of the laws!"

It is protested that the philosophical considerations of men who love liberty and wish it to be perpetuated are all arrayed against such a scheme of government. It is so evidently unequal, discriminating, and partial that it is a misnomer to call it taxation. It is unmasked confiscation. Surely such legislation should not find shelter beneath the Constitution. It defies not only the principles of that great document, but it sweeps away personal and property rights which the Supreme Court has declared to be beyond and above the Constitution:

It must be conceded that there are such rights in every free government beyond the control of the state. A government which recognized no such rights, which held the lives, the liberty, and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power, is after all but a despotism. It is true it is a despotism of the many—of the majority, if you choose to call it so—but it is none the less a despotism.

With solemn earnestness it is affirmed that the violation of this doctrine of elemental rights will be followed by further invasions, and that, as one vice follows another, we will soon have possibly one per cent. of the people paying the taxes, and finally a provision that only the twenty persons having the greatest estates shall bear the whole taxation—"and after that communism, anarchy, and then the ever following depotism."

The foregoing statement of the reasons and arguments which have been presented for and against the taxation of incomes discloses how intense and fundamental the difference of opinion upon this question is. While extreme and somewhat violent utterances are not unexpected when coming from the

stump or legislative halls, there is a profound significance in some of the statements contained in the divergent opinions filed by the Supreme Bench in the income tax cases, where one learned justice denounced the tax then proposed not only as unconstitutional, but as an assault on wealth and a usurpation of power, while another expressed his deep conviction that the denial of the power of Congress to levy the tax approached the proportion of "a national calamity" and might prove "the first step toward the submergence of the people in a sordid despotism of wealth."

Amid these antagonistic opinions, what is the true course? A trustworthy chart has been prepared by President Roosevelt in his declaration that in this kind of taxation, where the men who vote the tax pay but little of it, there should be a clear recognition of the danger of inaugurating any such system save in the spirit of entire justice and moderation; and that it must be made clear beyond peradventure that the aim is to distribute burdens equitably, and to treat rich men and poor men on a basis of absolute equality. But will the country steer faithfully by that chart? In 1894 Congress drifted upon the dangerous reefs of discriminating taxation. If the mirage of its impractical fairness shall again lure Congress to enact an income tax, it should at least be so framed as to fall upon a reasonable percentage of the population. It should not by its narrow scope nullify the uniformity mandate of the Constitution, for, as has been said, when that occurs, "it will mark the hour when the sure decadence of our present government will commence." And it is further submitted that, before any income tax legislation whatever is undertaken, Congress may wisely act upon the president's recommendation for a progressive inheritance tax. Such a measure will accomplish many of the good results and avoid most of the evils attendant upon the income tax. Let Congress, therefore, impose a reasonable tax on inheritances, and test its possibilities of revenue and its equalizing powers, before resorting to a tax of doubtful constitutionality, which in practice is unequal, discriminating, obnoxious, and inefficient, the foe of industry, the shroud of personal honesty, and a stranger to the true spirit of our laws and institutions.

Outlook. 93: 328-9. October 16, 1909.

Income Tax.

The Massachusetts Republican convention declares itself in favor of an income tax, but raises the question whether such a tax should be levied by the state or by the national government, or whether there should be two taxes, one state, the other national. It bases its advocacy of an income tax on the following principle:

The burden of taxation should be distributed so as to bear most heavily upon those best able to sustain it.

This is specious, but it is false. Taxation should be determined, not by the ability of the individual to pay the state, but by the service which the state renders to the individual. The principle laid down by the Massachusetts Republican state convention is an application of the socialistic doctrine: "From every man according to his ability, to every man according to his need." This is generosity, not justice. Justice requires from every man a fair recompense for the service rendered to him. A fair equivalent should be rendered by the state for every tax collected; and the taxes should be so distributed as to bear most heavily on those who require of and receive from the state the greatest service. The principle laid down by the Massachusetts convention assumes that the state is a benevolent corporation, and that every man should contribute to its treasury on the missionary basis, "as the Lord hath prospered him." But the state is not a benevolent corporation. It is organized primarily for the purpose of protecting persons and property. And the amount of tax to be paid should be proportioned to the amount and cost of the protection furnished. It should therefore be proportioned not to incomes but to possessions.

For the cost of protecting persons does not greatly vary. It costs little or nothing more to protect a banker whose salary is twenty thousand dollars a year than to protect the book-keeper whose salary is one thousand dollars a year. But it costs a great deal more to protect the fifty-thousand-dollar house of the banker and the various corporations in which the banker

has invested half a million or more than it does to protect the furniture of the bookkeeper in his rented apartment. A tax levied on income derived from investment would be legitimate; because such a tax would be levied on property, and so would be proportioned to the service rendered by the community to the individual. Taxes levied on income derived from industry are not legitimate; because such taxes are proportioned to the market value of the service rendered by the individual to the community.

Political Science Quarterly. 25: 193-219. June, 1910.

Income-Tax Amendment. Edwin R. A. Seligman.

The question of the income-tax amendment of the federal Constitution is now before the country. The general movement in favor of its ratification by the state legislatures has suffered a serious set-back through the opinion expressed by the governor of the state of New York. In his judgment, the power to levy an income tax ought assuredly to be given to the national government, but the amendment proposed by Congress labors under the fatal defect that it would empower the federal legislature, by taxing state and municipal bonds, to strike at the very vitals of state credit and state independence.

Governor Hughes is so excellent a lawyer and so great a statesman that his opinion is not lightly to be controverted. But in my judgment it is erroneous in three respects:

(1) His interpretation of the legal force of the amendment is incorrect.

(2) Even were his legal interpretation correct, he fails to take account of economic facts which would prevent the consequences which he fears.

(3) Even were his view correct, that the constitutional amendment would operate to change the law in the direction indicated, there are valid reasons why the law should be so changed and the amendment prevail.

Let us take up each of these points in order.

I

A long series of decisions has established the doctrine that there are limitations implied as well as express upon the power of taxation, both of the federal and of the state governments. In the case of *McCulloch v. Maryland*, decided in 1819, it was held that a state tax on the Bank of the United States was unconstitutional. Chief Justice Marshall, in this case, stated:

That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another, which other, with respect to those very measures, is declared to be supreme over that which exerts the control, are propositions not to be denied. . . . The states have no power, by taxation or otherwise, to retard, impede, burthen, or in any manner control, the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the general government.

A few years later, 1824, the same proposition was advanced in the case of *Osborn v. United States Bank*. The next step was taken in 1829, when, in the case of *Weston v. Charleston*, a local tax on federal bonds was declared unconstitutional. The court said:

The tax on government stock is a tax on the contract, a tax on the power to borrow money, on the credit of the United States, and consequently repugnant to the Constitution. . . . The right to tax the contract to any extent, when made, must operate upon the power to borrow before it is exercised and have a sensible influence on the contract. The extent of this influence depends upon the will of a distinct government. To any extent, however inconsiderable, it is a burthen on the operations of government.

Again, in 1842, in the case of *Dobbins v. Commissioners of Erie County*, it was held that a local tax was invalid so far as the salaries of federal officers were concerned. And finally, in 1862, in the case of *Bank of Commerce v. City of New York*, it was decided that a state tax on the capital stock of a bank, when such capital stock consisted, in whole or in part, of United States bonds, was unconstitutional.

Beginning at a later period, another series of decisions declared that the federal government was likewise restrained from taxing state operations and agencies. In the case of *Collector v. Day*, decided in 1870, the federal civil-war income tax was held to be unconstitutional so far as it applied to the salaries of state judicial officers. The court said:

It is admitted that there is no express provision in the Constitution that prohibits the general government from taxing the means and instrumentalities of the states, nor is there any prohibiting the states from taxing the means and instrumentalities of that government. In both cases the exemption rests upon necessary implication, and is upheld by the great law of self-preservation; as any government, whose means employed in conducting its operations, is subject to the control of another and distinct government, can only exist at the mercy of that government. Of what avail are these means if another power may tax them at discretion?

In *United States v. Baltimore and Ohio Railroad Company*, decided in 1872, it was held that the United States government cannot tax "the agencies and instruments" of the states. In *Mercantile Bank v. New York*, decided in 1886, which held that a state tax on the shareholders of national banks was valid for special reasons, not necessary here to discuss, it was stated, although indeed *obiter*, that bonds issued by a state, "or under its authority by its public municipal bodies, are means for carrying on the work of government, and are not taxable even by the United States." And finally, in *Pollock v. Farmers' Loan and Trust Company*, decided in 1894, the foregoing dictum was cited with approval, and it was distinctly held that a tax upon incomes from municipal bonds was unconstitutional. The court said:

It was long ago determined that the property and revenues of municipal corporations are not subjects of federal taxation. The same want of power to tax the property or revenue of the states or their instrumentalities exists in relation to a tax on the income from their securities.

It is accordingly an established rule of constitutional interpretation that state and municipal bonds are not subject to federal taxation.

The question which now confronts us is: Will the adoption of the proposed amendment change this situation? The amendment states that Congress "shall have power to lay and collect taxes on income, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration." What does this mean? It is obvious that the government now has power to levy an income tax; but in attempting to levy such a tax it is met by those provisions of the Constitution which declare, first, "that no capitation or other direct tax shall be laid unless in proportion to the census

or enumeration hereinbefore directed to be taken," and secondly, that "representatives and direct taxes shall be apportioned among the several states according to their respective numbers." If these provisions apply to the taxation of income, they mean that if state A, with the same population as state B, has five times the wealth, the income tax payable by a citizen of state B will be five times as large as that payable by an equally wealthy citizen of state A. So monstrous an inequality would of course prevent Congress from imposing an income tax as a direct tax. To make a federal income tax practicable, it is necessary either to declare it to be an indirect tax—the sole restriction as to which is that it shall be uniform—or expressly to permit the levying of an income tax without apportionment.

For many years the income tax was supposed to be an indirect tax in the sense in which the term is used in the Constitution. Toward the close of the War of 1812 the Committee of Ways and Means brought in a scheme for an income tax, and, had peace not been suddenly declared, the scheme would have been adopted. Many signers of the Constitution were still living, and no one raised the objection that the income tax was direct in the constitutional sense. During the Civil War an income tax was levied, and in the first cases adjudicated it was upheld. Taking each of these cases as decisive only of the precise question before the court, it was settled in *Pacific Insurance Company v. Soule* that a tax on the premiums received by an insurance company is not a direct tax, and in *Springer v. United States* that a tax on the income which an individual derives in part from professional earnings and in part from the interest on bonds is not a direct tax. In the *Pollock* case, on the other hand, it was decided that a tax on the income from real estate is a direct tax, valid only when apportioned, while a tax on municipal bonds was declared to be, like a tax on the salaries of state officers, entirely invalid for lack of power to impose it.

The Supreme Court of the United States has thus held that certain kinds of income taxes are indirect, that certain other

kinds of income taxes are direct, and that still other kinds of income taxes are invalid, irrespective of whether they are direct or indirect. (So far as the first two classes are concerned, therefore, the court has stated the law to be that a tax on incomes from certain sources, being direct, can be levied only through apportionment, and that a tax on incomes from other sources, being indirect, can be levied without apportionment.) The object of the pending constitutional amendment is simply to remove this discrimination and to make it possible to tax incomes without apportionment, whether the sources of the incomes are regarded as falling within the one category or the other. That is, the amendment declares that an income tax can henceforth be levied without apportionment, no matter what the source may be, *i. e.*, no matter whether the source is one that at present necessitates apportionment or one that at present does not necessitate apportionment. (When the amendment states that the government shall have power to levy a tax "on incomes, from whatever source derived, without apportionment," chief emphasis is to be put upon the words "without apportionment." The words "from whatever source derived" are indeed no mere surplusage. On the contrary, their real import is to remove the existing discrimination between the various sources of income, so far as apportionment is concerned, and to put those sources which, under the existing interpretation, can be taxed only through apportionment in the same category as those sources which can now be taxed without apportionment. To say "from whatever source derived" is simply another way of saying "irrespective of the source," or a shorter way of saying "from all sources alike, whether the source be one that previously made apportionment necessary or not." So that the amendment is equivalent to the statement that "Congress shall have power to lay and collect a tax on incomes, whether previously laid by apportionment or not, without apportionment." It is accordingly a mistake to assume that the words "from whatever source derived" give the government the power to tax the income from state or municipal bonds, for such a tax falls within the third category of income taxes mentioned above as

being entirely beyond the taxing power of the federal government.

This has been clearly recognized by the Supreme Court. ✓ In the Pollock case it was expressly held that the objection to the taxation of municipal bonds was lack of power on the part of the general government to interfere with the operations of state government.) When the Pollock case was reheard, the court said, in reference to the grounds of the decision in the original hearing: "As to the income from municipal bonds, that could not be taxed because of want of power to tax the source, and no reference was made to the nature of the tax as being direct or indirect." Both on the original hearing and on the rehearing, dissenting opinions were read, but on the point which we are now considering there was no dissent. Justice White said:

The decisions of this court, holding that the federal government is without power to tax the agencies of the state government, embrace such bonds [*i. e.*, those of municipal corporations] Where there is no power to tax for any purpose whatever, no direct or indirect tax can be imposed The levy, whether direct or indirect, is beyond the taxing power.

Justice Harlan, who concurred with the views expressed by Justice White, added: "It is immaterial to inquire whether the tax [on the income of municipal bonds] is, in its nature or by its operation, a direct or an indirect tax; for the instrumentalities of the states . . . are not subjects of national taxation in any form or for any purpose." And Justice Brown stated that a tax upon the income of municipal bonds was, in his opinion, a "tax upon something which Congress has no right to tax at all, and hence is invalid. Here is a question, not of the method of taxation, but of the power to subject the property to taxation in any form."

It is clear, therefore, that a change in the method of assessing an income tax, from that of apportionment to that of direct levy, cannot make any difference as to the power of the government to tax the income of state or municipal bonds. If the federal government is precluded by the very nature of the constitutional pact, as we are told in *Collector v. Day*, from imposing any tax on state agencies, power to do this will not be

conferred upon it by an amendment which simply changes the method of levying a particular kind of tax. What is now non-taxable will remain non-taxable. A change in the method of taxation does not constitute a change in the subject of taxation.

Any other interpretation of the amendment, moreover, would result, in the event of its adoption, in a situation which may well be characterized as absurd. (The existing inability of the federal government to tax the property of a state or the instrumentalities of its government will of course continue, for the amendment clearly does not empower Congress to tax property as such.) If it were to be held that the amendment gave the federal government power to tax the income of state bonds, we should then have the awkward result that the federal government could not tax the bonds themselves but could tax the income from the bonds. Or, to take a still more absurd case, if a state or municipality possessed some revenue-yielding property, like a piece of real estate, it would be competent for the federal government to tax that real estate if it assessed the tax *eo nomine* on the income, while it would be incompetent for the federal government to tax the real estate if the tax were levied on the property as such. In view of the fact that the market value of any piece of property is due only to its present and prospective income, it will readily be perceived in what a maze of contradictions we should be involved by the acceptance of so strained an interpretation of the amendment. When two interpretations of a clause are possible, of which the one is not only, as the Supreme Court has asserted, in direct opposition to the spirit of the Constitution but is also calculated to bring about the most awkward practical situation, while the other is in complete harmony with the trend of judicial decisions and at the same time is likely to obviate all fear of fiscal contradictions or complications, is it not reasonable to assume that the court will prefer the second and more natural interpretation? Such an interpretation is the one which puts the emphasis on the words "without apportionment" and regards the amendment as legalizing a change simply in the method of levying the tax—a change from apportionment to direct assessment.

We are therefore justified in concluding that the essential character of the implied restrictions in the Constitution will not be altered one whit by the amendment. State and municipal bonds will henceforth, as before, be exempt from federal taxation, whether the tax be imposed on the property, or whether it be imposed on the income from the property. ✓

II.

If now for the sake of argument, it be assumed that the contrary view is legally correct, and that the effect of the proposed constitutional amendment would be to legalize the taxation of state and municipal bonds, it may still be shown that the consequences mentioned in the message of Governor Hughes would not follow. We are told that the amendment might "place the borrowing capacity of the state and of its governmental agencies at the mercy of the federal taxing power," and that it might "place such limitations upon the borrowing power of the state as to make the performance of the functions of local government a matter of federal grace."

This opinion, as I hope to show, is erroneous, and the error is traceable to the lack of an adequate economic analysis on the part of the governor—an analysis indeed, which is equally absent from the legal decisions which have misled him. In other words even if the governor's law be sound, his economic reasoning is unsound, and his final position is still untenable. Let us leave for a time, the whole domain of legal contention and discuss the question of the economic effect of the amendment.

The objection to a tax on governmental securities rests on the presumption that their market value will be affected by the tax. As the Supreme Court said in 1829, in *Weston v. Charleston*:
The tax on government stock is a tax on the contract, a tax on the power to borrow money, on the credit of the government. . . . The right to tax the contract to any extent, when made, must operate upon the power to borrow before it is exercised, and have a sensible influence on the contract.

Of course this sensible influence on the contract can register itself only in the lower market price of the securities. This is

the result of the familiar economic principle known as the capitalization or amortization of taxation.

The theory of the capitalization of taxation is, in effect, that when a recurring tax of virtually the same amount is imposed upon the capital or selling value of some durable or permanent property, the selling value of that property will be reduced by a sum equal to the capitalization of the tax. If, for instance, the normal rate of interest on securities is five per cent, and a five-percent bond has been selling at par, and if a new tax of one per cent per annum be imposed upon that particular class of securities, the price of the bond will fall from 100 to about 80¹. The new purchaser of the bond will net only four dollars on the hundred, since he has to pay one dollar in taxes. If, however, he can look forward to a net return of only four dollars, and if the general rate of interest still remains at five per cent, he will naturally pay only eighty dollars for that bond. There is no reason why he should pay more, since he can continue to invest his money in enterprises which are not taxed and which will still net him five per cent. In other words, the annually recurring tax of one per cent will be capitalized into a sum which is automatically deducted from the market value of the securities, thus bringing about an amortization of these securities. At any given time the discrepancy be-

¹As a matter of fact, whether the price of the security upon which the new tax is imposed will fall exactly to 80 depends very largely upon the amount of these securities, compared with the total amount of capital in the country. If the amount of these newly taxable securities is comparatively large, the price will not fall quite to 80, but perhaps only to 81; for the imposition of a tax on so large a part of the outstanding capital of the country will probably have an influence, even though slight, on the general rate of interest and may reduce that general rate from five per cent to perhaps four and seven-eighths or four and fifteen-sixteenths. If a large amount of capital is transferred from these newly taxed bonds to other securities, the increasing demand for these other securities, previously selling at par, will enhance their price to a little above par. As, however, the net return on these other securities remains at five dollars, this is equivalent to saying that the rate of interest on the investment will now be a little below five per cent. If the general rate of interest falls to a little below five per cent, the market value of the taxed securities will now be a little over 80. If, as is usually the case, the taxed security forms only an insignificant part of the whole amount of capital, the influence on the general rate of interest will be inappreciable, and the price of the security will fall to 80.

tween the taxed and the untaxed securities will be precisely such as to make the net income from each equal the normal rate of interest, and the difference in the market value of the two classes of securities will always be exactly equal to the capitalization of the tax.

The influence of tax exemption is the very reverse of that exercised by taxation. If all securities have hitherto been subject to taxation, and if one particular class of securities be suddenly exempted, the value of these tax-exempt securities will rise by an amount equivalent to the capitalization of tax. If five-per-cent bonds which, like all other forms of capital that are subject to a tax of one per cent, sell at par, it means that the normal rate of interest is four per cent, since investors net four dollars on every hundred dollars. If this particular class of bonds be now exempted from taxation, the price of the bonds will appreciate to 125, since five dollars bear the same relation to \$125 as four dollars do to \$100. Thus, whatever way we look at it, taxation will diminish the market value of bonds just as exemption will increase their market value.

Where an annual tax is actually enforced, and where other conditions remain the same, the difference between taxable and non-taxable securities is indeed precisely in accord with the capitalization theory. In the United States, however, the influence of taxation is sensibly modified by prevailing conditions, and the discrepancy between taxable and non-taxable bonds is far less than might be expected. The rate of the local property tax varies in the United States from one and one half per cent to over two per cent. Let us take two per cent as the normal figure. Let us also assume that the current rate of interest is four per cent, so that four-percent bonds will sell at about par. If there were no property tax, and if these bonds were now subjected to the two-percent tax, they would manifestly fall to 50, since one-half of their yield would be eaten up by the tax. If, on the other hand, we take the actual law under which all property is taxable at the rate of two per cent, then if the four-percent bonds were exempted from taxation their price on the market ought to rise from par to 200; for instead of the holder

netting two dollars on each one hundred dollars (four dollars interest minus two dollars tax), he would now net four dollars, or double the amount. A doubling of the income, however, would involve a doubling of the market value.

As a matter of fact, the disparity between taxable and tax-exempt securities in our American states falls far short of reaching this point. This is true not only of exemption from a special tax but, and in still larger measure, of exemption from a general tax. A good example of the influence of a special exemption is afforded by the New York state canal bonds. When these bonds were authorized, to provide for the enlargement of the Erie canal, the constitutional amendment limited the rate of interest to three per cent. By the time that it had become necessary to issue the bonds, the market had fallen to such a point that they were not salable, and in order to change the rate another constitutional amendment became necessary. To arrange for the state finances in the interval, a law was passed granting to the three-percent bonds a special exemption of one per cent, to be applied against the franchise tax of similar amount, payable by savings banks, trust companies and insurance companies. The three-percents, as a result, sold around a 2.90-per cent basis, and the four-percents around a 3.45-per cent basis. Even here, therefore, the difference in the price of the bonds was only about one-half of the capitalization of the tax.

The case of general exemption is illustrated in Massachusetts. In that state all municipal bonds issued after May 1, 1908, are exempt from taxation. The old taxable three-and-one-half-percent Boston bonds sold in 1910 in Massachusetts on about a 3.80-percent basis, the new tax-exempt bonds sold on about a 3.40-percent basis, *i. e.* at 101.83 as compared with 94.76. The tax rate was about 1.65, almost one-half of the income of the bonds. In other words, a tax exemption of almost fifty per cent of income made a difference of only seven per cent in selling value. Even this difference, moreover, is largely due to the fact that the chief purchasers of Boston bonds are the Massachusetts savings banks, which are subject to a fixed tax of one-

half of one* per cent—a tax that is collected with comparative efficiency.

Where the bonds command a wider market, the influence of tax exemption is naturally far less marked, because the exemption applies only within the state. In Pennsylvania, for instance, bonds are subject to a tax of four mills on the dollar, and some corporations and municipalities pay the tax without deducting it from the interest. In the case of the smaller municipalities, whose bonds are sold only locally or within the state, this tax produces a difference in price between taxable and tax-exempt bonds, but a difference that is far less than a capitalization of the tax. In the larger cities, however, like Philadelphia, Pittsburg and Scranton, where the bonds are a legal investment for New York savings banks and thus reach a wider market, the difference in value is exceedingly slight. A bond which sells on a 3.90-percent basis, tax-exempt, would in such cases, if taxable, sell only on about a four-percent basis. In the case of general corporate securities which have a still wider market, the difference due to tax exemption is almost inappreciable. A taxable security selling at 100 will frequently compare with a tax-exempt security at 102 or 103—a difference which, when spread over the years prior to the maturity of the bond, represents only the merest fraction of the four-mills tax.

In most of the states, however, the tax rate is not four mills, as in Pennsylvania, but, as stated above, from one and one-half to two per cent. Even where a serious attempt is made to enforce the personal property tax, as in Ohio, with its tax-inquisitor law, the only result is that tax-exempt bonds—Cincinnati bonds, for instance—sell on a 3.80-percent basis in the local market, while in the general outside market they would sell at a lower price—namely on a 3.90 or 3.95-percent basis. The actual tax, or the risk of taxation of two per cent, hence means a difference of only a few points in the value of the securities.

Even within the area of tax exemption, the larger the amount of the tax-exempt securities, the smaller will be the difference in value between them and the taxable securities. In New York, for instance, so long as tax-exempt bonds were rare, they com-

manded somewhat of a premium: the New York City two-and-one-half-percent bonds at one time sold above par, because they were much sought after by trustees of trust estates who were desirous of escaping the burdensome local tax. Since 1908, however, all municipal bonds are exempt from general taxation throughout the state; and the result has been a progressive disappearance of the difference in price between taxable and tax-exempt bonds. Of course two other factors have been coöperating; the one, that the market in New York city bonds now transcends the capacity of New York city investors; the other, that the assessment of taxable securities in the hands of individuals, under the local general property tax, is becoming even more infrequent than it was formerly. Undoubtedly, however, the chief factor in the progressive elimination of the premium on tax-exempt bonds is the increase in their quantity. It is instructive to note how, through the inevitable operation of economic law, the very multiplication of tax-exempt state and municipal bonds is gradually defeating the object of the exemption. The greater the area of tax exemption, the less does its influence become.

It appears, accordingly, that, under present American conditions, exemption from a tax which in some cases amounts, nominally, to twenty-five or even fifty per cent of the income of the bonds actually makes no difference in their market value, or a difference so slight as to be negligible. This at least is the result of the exemption of state and municipal bonds from the general property tax, as levied in the American states. Let us now consider the bearing of this fact upon the results to be anticipated from the imposition of a federal income tax.

✓ The income tax contemplated by the constitutional amendment is very different from the general property tax. A general property tax of two per cent is, we have seen, equivalent to a fifty per cent income tax, if the prevailing rate of interest is four per cent. The federal income tax of 1894 provided for a tax, not of fifty per cent, but of two per cent. If a tax of fifty per cent makes, as we have seen, virtually no difference, what significance can we ascribe to a tax of two per cent?

Even if we assume that a federal income tax will be more effectively enforced than a state general property tax, the margin is still so enormous as to rob the income tax of much of its supposed danger. The practical effect of subjecting the income of state or municipal bonds to federal taxation would be so slight as to render the tax virtually innocuous.

We come now, however, to the central point of the argument. In the entire preceding discussion we have assumed the existence of an exclusive tax or of a special exemption. The theory of capitalization or amortization applies only in such cases. If a special tax is permanently imposed on a class of property, it can be capitalized, because of the existence of a taxless field to which the taxpayer can repair and in which he can invest his money. If a special class of property is exempt from taxation, the influence will be felt only because the exemption applies to it alone, and not to other classes of property. But if the tax applies to all classes of property alike, there can be no amortization; and if the exemption applies to all classes alike, there can be no capitalization. The very basis of the theory is the exclusiveness or uniqueness of the proceeding. When a tax is a general tax and not an exclusive tax, the theory ceases to apply.

(Now the income tax contemplated by the amendment is not a special tax but a general tax. By the very terms of the amendment, it applies to all kinds of income from whatever source derived. This is the true purpose of the measure. It is conceded that if a special tax were imposed *eo nomine* on state and municipal bonds, it would, theoretically at least, have some influence on their market value, although, as we have seen, the practical effect of such a tax would be less than might be expected. But if incomes derived from state bonds are taxed at the same rate as incomes from other bonds, how can the tax have any influence on their value? There is no taxless field to which the bondholder can repair if he seeks to make a different investment. In whatever kind of property he puts his capital, his income will be equally diminished by the tax. But if all incomes are equally diminished, there can be no change

brought about in the relative superiority or inferiority of the different sources of income. If five-percent government bonds are selling at par, and if a general income tax of one per cent is imposed on all incomes, the price of government bonds as compared with other securities in general will not be affected one iota. We may go further and say that there will be no change at all in the actual values of any securities, unless the tax is so high as to cause a perceptible exodus of capital to foreign countries, with a resulting slight change in the domestic rate of interest, which change in the rate of interest would, of course, reflect itself in the market values of the securities.

The ordinary view is to be traced to the adoption by the Supreme Court of what is mistakenly conceived to be the opinion of Chief Justice Marshall. In explaining the decision of the court in *Weston v. Charleston*, Chief Justice Marshall said: "The right to tax the contract to any extent, when made, must operate upon the power to borrow before it is exercised and have a sensible influence on the contract." And again: "To any extent, however inconsiderable, it is a burthen on the operations of government." This reasoning, in these very terms, was applied in the *Pollock* case to the federal income tax. It is evident, however, that this application is erroneous; for if the tax is a part of a general income tax there can be no capitalization and no change in the value of the bonds, and hence it cannot "operate on the power to borrow" and cannot "be a burthen on the operations of government." Marshall's statement was justified, in the case which he had before him, for two reasons: first, because the tax in question was, in part at least, *eo nomine* on government bonds, and secondly, because it was a state tax on federal securities. In the *Pollock* case, however, not only was the court discussing a federal tax on state bonds, but the tax in question was a general tax. Passing over, for the moment, the distinction between a state tax on federal securities and a federal tax on state securities, which will be treated below, the difference between a special tax and a general tax is in itself sufficient to show that Marshall's reasoning does not apply to the *Pollock* case. In this latter case, the

failure of the court to estimate the inexorable operation of economic law led it astray; and implicit reliance on the economic views of our later jurists has misled so eminent a statesman as Governor Hughes.

We may accord the fullest authority to the legal reasoning of the Supreme Court; but when a legal conclusion is based on an economic argument which is plainly fallacious, it is time to call a halt. In this instance the economic reasoning of the Supreme Court is so obviously defective that it invalidates the entire conclusion. A specific and exclusive tax on state bonds would indeed have the consequences ascribed to it by the court; a general tax could not possibly have those consequences. A tax on the income of state or municipal bonds as a part of a general income tax would leave everything as it was before the tax. If the operations of state governments were previously not burthened, they would not be burthened by such a tax. If the power of the state to contract was not affected before the imposition of the tax, it would not be affected by the imposition of the tax. The economic situation would be unchanged.

It may be claimed, however, that, even if the preceding argument is valid and even though state and municipal bonds will not suffer in price by being subjected to a general income tax, a special exemption of state and municipal bonds from taxation will enhance their price. Therefore a failure to exempt them might be regarded as virtually tantamount to an attack on the state's credit. This claim is specious, but it is not valid.

In the first place, the actual enhancement of prices due to special exemption will be far less than is usually imagined; for not only will an income tax or an exemption from such a tax have, as pointed out above, no significant influence on the capital value of the security, but the mere fact of the general exemption of all state and municipal bonds would, in itself, tend to minimize even this slight influence. The exemption of the bonds of a particular municipality might well be expected to exert an influence on their price. But in proportion as other municipal bonds in the state, and state and local securities in other states, come to enjoy the same privilege, the advantage

would tend to be neutralized. If the exemption were to apply to all state and local bonds, amounting to many hundreds, or perhaps in the near future even thousands, of millions of dollars, we should see the same development which, as explained above, has actually worn away the original advantage attaching to the tax-exempt bonds of New York City. The broader the exemption area, the less the value of the exemption.

The argument that tax exemption is especially needed in times of crisis is thus robbed of most of its force; for if tax exemption has little value under normal conditions, it can have no great value in times of crisis. At such times, indeed, it will have no value; for in crises bonds are almost completely unsalable. The drop in their price is so great that the question of their taxation or exemption becomes immaterial.

It may be urged, further, that even if the exemption of state securities from a federal income tax were of real advantage to the states, there seems to be no reason why the federal government should confer upon them this advantage. The constitutional inhibition, if it means anything, means only that the national government shall not discriminate against the states by injuring their power to borrow. It does not mean that the national government should discriminate in favor of the states by enhancing their power to borrow. A special exemption of state bonds from a general income tax would, if it increased the market price of these securities, be tantamount to a gift from the national government to the state government. Such a relation, however, is not contemplated by the Constitution. It is not the function or the province of the national government to confer gifts or favors upon the state governments. The states can look after themselves, and all that they have a right to ask from the national government is that there shall be no unconstitutional interference with their powers. Equality under the Constitution they have a right to claim; special favors they have no right to demand.

Moreover, such an exemption of state and municipal bonds would be inconvenient to the national government and unjust to the individual citizen. Federal securities have at times been

taxed by the federal government. It may again become desirable that they shall be so taxed; all the important European countries now find it on the whole advisable to tax their own securities. If the bonds of the United States were taxed under a general income-tax law, and if at the same time state and municipal bonds were exempt, it will be readily seen that this would in effect be subordinating the credit of the United States to that of the local divisions. Such a contingency can be contemplated only with apprehension. Of still greater importance is the consideration that, if state and local bonds were especially exempt as over against the whole mass of private and corporate securities, the individual citizen would have a just cause for complaint. Not only would it mean an escape from taxation for all those who chose to invest in state or local bonds, but, if the advantage were at all appreciable, the increasing demand for these state and local bonds would mean such a transfer of investments as to cause a sensible depreciation in the market value of other securities, and the unfortunate possessors of those other securities would have to suffer a loss, the corresponding gain accruing to the happy possessors of the tax-exempt state and local bonds.

Thus, from every point of view, the special exemption of state bonds from a general income tax is indefensible. It would in all likelihood not accomplish the object which it is designed to attain; but in so far as it did accomplish this object, it would create a glaring inequality, inimical alike to the maintenance of the national credit and to the interests of the mass of the individual taxpayers.

III

We come now to the final consideration. Even if it were true, as it is not, that the proposed constitutional amendment empowers the national government to tax the income of state bonds, there are valid reasons to justify such a change in the law. Even if the amendment may be so interpreted as to give the federal government this new power, it ought still to prevail.

On what ground, however, it may be asked, can we defend the immunity of national bonds from state taxation, and at the same time uphold the possible legitimacy of the federal taxation of state bonds? Does not the same principle, the independence of each government within its own sphere, apply in both cases? Let us look into this question.

If we examine the successive legal decisions on the subject, we shall find that there have been three stages in the development of the doctrine that the states may not tax the agencies of federal government. In the case of *McCulloch v. Maryland*, in 1819, the objection was to a special and exclusive state tax on an agency of the federal government; for the tax in question was levied on "all banks, or branches thereof, in the state of Maryland, not chartered by the legislature," and the only bank at that time fitting the description was the Bank of the United States. In the case of *Weston v. Charleston*, in 1829, the second step was taken by declaring unconstitutional a state or local tax which was indeed not exclusively levied on the instrumentalities of the national government, but which specifically and by name included federal bonds in a list of taxable securities. The third and final stage was reached in the case of *Dobbins v. Commissioners of Erie County*, decided in 1842, in which it was held that a local tax, entirely general in character and making no special mention of government salaries, was nevertheless invalid so far as it affected the salaries of federal officers. And in the same way, a few decades later, in 1862, it was decided in *Bank of Commerce v. New York City* that a state tax on federal bonds was unconstitutional even if the tax were entirely general in character and did not mention federal bonds at all. Thus we have a gradual evolution of the doctrine, from the initial stage of exclusive taxation through that of specific mention to the final stage of general taxation.

On the other hand, in the reverse case of the attempt of the federal government to tax state agencies, there was no such gradual evolution of the doctrine. The theory which had reached its complete formulation in 1842 and in 1862, with reference to state taxation of federal agencies, was now, in 1870,

taken over bodily to apply to the federal taxation of state agencies. In the case of *Collector v. Day* it was decided that a general federal income tax was unconstitutional so far as the salaries of state judicial officers were concerned, even though they were not at all specifically mentioned in the law. And in the *Pollock* case this reasoning was applied to a general federal income tax so far as it reached the income of municipal bonds.

On what grounds, now, can we justify the rule of non-interference with agencies of government in the first set of cases and withhold our approval from its application to the second set of cases? It may at once be conceded that a tax on the agencies of state government which really impairs the operations of state government would be just as obnoxious to the Constitution as a similar state tax on federal agencies. It may further be conceded that a special federal tax on state bonds or on the income of state bonds would be just as indefensible as a similar state tax on federal bonds. The question at issue, however, is a different one—it is whether the taxation of federal bonds under a general state tax law is to be in the same category as the taxation of state bonds under a general federal tax law. In my opinion the two cases are not on a par, and for the two following reasons, the one political, the other economic.

The political ground on which a distinction may be drawn between the two cases is this: A state legislature may frequently find it in the interest of the state to follow a policy which is different from that of other states, and which may even be distinctly opposed to that followed in federal legislation. The states, acting through their legislatures, may regard only their peculiar narrow interests and may consider them superior to those of the country as a whole. On the other hand, Congress is composed of representatives from all the states, and in the Senate, in particular, equal voice is given to the wishes of each state. There is hence no likelihood of a federal tax law interfering with the states, except where it is the well-considered opinion of a majority of all the states that the interests of any particular state ought to be subordinated to the welfare of the whole. In other words, while the federal government would,

without the restrictions which the Supreme Court has read into the Constitution, have no protection against hostile action on the part of state legislatures, the state governments have, from the very nature of the case, a far greater measure of protection against the acts of Congress.

It must, moreover, not be overlooked that all sound constitutional interpretation should keep pace with the changing needs of political and social life. The conditions which existed when the Constitution was framed are no longer existent. At that time the political and economic interests of the separate states were so distinct and the sense of state sovereignty was so strong that it was only with extreme difficulty that a federal government was established at all. During the last century, however, the development of the underlying economic and social forces has created a nation, and this development calls for uniform national regulation of many matters which were not dreamed of by the founders. In all the federal states which have been created during the nineteenth century, under the influence of these newer economic forces, in Canada, in Germany, in Australia and in South Africa, we find no such problems as those which vex us, because of the greater authority initially granted to the central government. In Canada, for instance, we find just the reverse of our system. With us all powers not expressly conferred upon the federal government are reserved to the states or to the people; in Canada the powers not expressly conferred on the states or provinces are reserved to the federal government. It is idle to say that this centralization of powers, where centralization is needed, is injurious either to democracy or to self-government. There is at least as much true democracy and as much real self-government in Canada and in Australia as there is in the United States. Let us not make a fetich of "self-government," and let us not oppose central authority in those cases where self-government means retrogression rather than progress.

The Supreme Court of the United States has already been influenced by these considerations. In the case of *Veazie Bank v. Fenno* it was held that a federal tax on state bank

notes was valid, because of the necessity of upholding a national system of currency. In the recent and very important case of *South Carolina v. United States* it was held that a federal tax on a state dispensary was constitutional. On the other hand it is certain that the Supreme Court would never uphold the validity, without the express consent of Congress, either of a state tax on national bank notes or of a state tax on a federal business or a federal monopoly. In other words, we are gradually working out, in detail, the distinction that Marshall formulated many years ago in *McCulloch v. Maryland*: "The difference is that which always exists and always must exist between the action of the whole on a part and the action of a part on the whole." Sooner or later it will be realized that this distinction applies also as between a state tax on federal bonds and a federal tax on state bonds. Sooner or later we shall outgrow many of the notions of extreme individualism and of exaggerated state rights which dominated the country at the time of the formation of the Constitution. They are bound to disappear in the United States as they have disappeared in every other great federal republic.

If this political argument does not appeal to those who are still enmeshed in the web of extreme individualism and exaggerated state rights, there remains another argument of an economic character which is of decisive importance. Even though we assume that from the political point of view no distinction ought to be made in the matter of taxation between the state and the national government, it is susceptible of proof that valid economic reasons will justify the distinction between a general state tax on federal bonds and a general federal tax on state bonds. The general state tax to which allusion is made is the general property tax. The general federal tax to which allusion is made is the general income tax. Now a state tax on government bonds, as part of a general property tax, not only is unconstitutional but ought always to remain unconstitutional. State A, which imposes the tax in question, would of course, from the very nature of the case, tax all other monied capital as well as the capital invested in federal bonds. But its

neighbor state B might see fit not to impose a general property tax. There are several states in the Union which to-day do not impose a general property tax. Or, even if state B imposed a general property tax, its methods of assessment might be so lax that it would not reach all other monied capital. Consequently, if state A included government bonds in its taxable general property and actually assessed the bonds, the bonds would undoubtedly be affected in value through the lack of uniformity in the various states. The power of the general government to borrow money might thus be seriously impaired, and this risk would, beyond cavil, constitute a sufficient reason for withholding the power from the states. On the other hand, if the federal government were to impose a general income tax which, under the very terms of the Constitution, must necessarily be uniform throughout the country, the income from state bonds would be reached in precisely the same way as the income from all other monied capital, and, as I have abundantly shown above, there would be no alteration in the value of the bonds and therefore no influence exerted on the power of the states to borrow.

The Supreme Court of the United States went off on a wrong tack, not in the case of *Dobbins v. Commissioners* in 1842, but in the case of *Collector v. Day* in 1870. The cases, from the economic point of view, were not on a parity. Had *Collector v. Day* presented a situation like that in *McCulloch v. Maryland*, *i. e.*, had it been a question of an exclusive federal tax comparable to the exclusive state tax, the economic basis of the argument would have been the same. But when *Collector v. Day* attempted to apply by inversion *Dobbins v. Commissioners*—when, in other words, a general federal tax was declared equivalent to a general state tax—the judges were misled by a superficial analogy which had no basis in economic fact. In the same way the Supreme Court erred when, in deciding the first *Pollock* case, it thought that it was applying the principle involved in *Weston v. Charleston*. *Weston v. Charleston* dealt with a state tax on federal securities; the *Pollock* case involved the question of a federal tax on state securities. As we have

seen, the economic conclusions which apply in the one case do not apply in the other.

In the long run, however, the economic interests of a community must prevail; for law is nothing but the crystallization of economic and social imperatives. Sooner or later, therefore, the underlying fallacy in the more recent decisions of the Supreme Court will be recognized by the court itself, or the mistake will be corrected by constitutional amendment. The law cannot permanently lag behind the economic truth.

Entirely apart therefore from any legal or political considerations that might be invoked, an economic analysis shows clearly that the inclusion of state bonds under a general federal tax is a very different thing from the inclusion of federal bonds under a general state tax. Since the economic results are or may be so entirely different, the legitimacy of the action of the respective governments is entirely different. From the economic point of view the states ought not to have the right to tax the bonds of the federal government at all; but the federal government might well be justified in including state bonds in a general income tax. Hence, even if the constitutional amendment were to have the legal consequences which are predicated of it, it ought still to prevail, in order to subserve the best economic interests of the whole country.

IV.

In order thoroughly to discuss all the problems raised by the constitutional amendment it would be necessary to go at some length into two further problems: first, to what extent is the taxation of government securities advisable, even by the power that issues them? and secondly, how far is the general scheme of an income tax in itself to be welcomed? These matters, however, would lead us too far astray, and they have, strictly speaking, only an indirect connection with the specific questions that are raised by the amendment. It may be stated, however, that in so far as the question of the taxation of government bonds is concerned, there are good arguments on both sides, and that this question finally resolves itself into a choice be-

tween upholding the credit of the government and maintaining exact impartiality as between individual taxpayers. Most of the European countries, after a long period of wavering, have now come to the conclusion that the exemption of the government securities from the income tax is on the whole inadvisable, and they are willing to subordinate the slight advantages which would accrue to the borrowing power of the government to what they conceive to be the far greater benefit of complete uniformity and equality as among the various classes of taxpayers. The tendency throughout the civilized world is away from, and not in the direction of, the exemption of government securities.

So far as the problem of a general income tax is concerned, there is perhaps less room for discussion. Many thoughtful citizens, indeed, may still have their doubts as to the practicability of an income tax and as to the possibility of the United States government creating a really successful income-tax measure. But all these doubts must fade away when the question is presented in all its baldness: "Shall the government of the United States be precluded from even making the attempt to levy an income tax?" To deny to a great empire like the United States the possibility of utilizing so powerful a fiscal engine in times of national stress would be almost equivalent to advocating national suicide. At all events, it amounts to a deliberate decision to put the national government at an enormous disadvantage at the very times when no possible advantage can safely be neglected. To withhold from the government of the United States a power which is possessed by the smallest of its competitors would be a monstrous folly.

Whether an income tax is a desirable supplement to the ordinary tax system of the United States in times of peace is a far-reaching question which need not be discussed in this place. That, after all, is a matter for the legally constituted representatives of the nation to determine. But surely no patriot can afford to object to conferring upon the United States a power which until recently it was always supposed to possess, and without which, its prosperity—nay, even, its very existence—might

possibly be menaced. The pending constitutional amendment seeks to secure this result, and its adoption ought not to be impeded by arguments that place upon it an erroneous interpretation and conjure up dangers which a more careful economic analysis shows to be wholly non-existent. The pending constitutional amendment is not only legally defensible and politically innocuous, but it is, above all, economically sound. It is therefore from every point of view eminently desirable.

Public Opinion. 15: 193-4. May 27, 1893.

Income Tax.

Of all the modes of raising public revenue, there is none so odious to the American people as is a tax on incomes. During the financial stress of the Civil War this tax was the last to be levied, and the first to be repealed after a brief experience of its operation. The popular hostility to the tax is not merely because of its inquisitorial character, but because of its tendency to divide the people into two great and widely separated classes—the paying and nonpaying, the having and the not-having class.

If all men should be truthful there would be no difficulty in collecting a tax on incomes without inquisitorial appliances. But as all men would not be truthful, a portion only would pay the tax, while no application of the governmental thumb-screw could wrest it from those who might desire to conceal the amount of their incomes. There is not so much honesty extant as to make it wise to put a government premium on lying and perjury. Experience has shown that men held as honest and fair-dealing with their neighbors have been converted into prevaricators and sneaks in their desire to conceal the extent of their incomes from the government inquisitor. Any measure that invites and encourages the spread of immorality in the state is itself immoral. But even if the income tax should have no such effect, the tendency to class distinction based on wealth, which is already too great, would unquestionably

receive a mighty impulse from this measure. Under its operation the citizens would be divided into two great bodies—the payers and nonpayers of income tax. In a republic men are all equal; but there could be no genuine political equality under a system which should divide the citizens into two classes based on the distinction of wealth. The payers of revenue would soon insist upon an influence in the government proportionate to their contributions, and many of the nonpayers would hasten to admit the justice of the claim.

Public Opinion. 15: 264-6. June 17, 1893.

Income Tax.

If incomes are to be taxed let them all, each for itself, contribute a fair share and part of the general amount. Under no other condition can a tax on incomes be justified. It is the first law of all equitable taxation that it shall be without discrimination, that it shall be uniform. An income tax levied only upon a single class, and that class largely distinguished for its achievements in building up the wealth, power, and dignity of the nation, and especially for providing incomes to the millions to whom it gives employment, is a tax which only the most forbidding spirit of socialism can defend in a country like this, the government of which is of all the people, by all the people and for all the people. Class legislation is native to the monarchical, not the democratic form of government. Class distinctions of any kind are not wanted here, and there can be none which is more out of sorts with American institutions than an income tax imposed solely upon those who achieve wealth by honorable, useful efforts, all which are of advantage to the country. The conclusive argument against such a tax is happily furnished by its supporters when they support it, as they do, upon the broadest, clearest socialistic grounds.

Quarterly Review. 206: 331-53. April, 1907.

Income Tax. Benjamin Taylor.

Graduation is not held to apply to a tax which is merely proportional to the net assessable income, and is levied at a constant rate, irrespective of the amount of the income. It is taken to imply a variation or progression in the rate itself having some relation to the amount of the income taxed. Between a "proportional" and a "progressive" system of taxation there is, however, in practice frequently no material difference. Whether a tax is described as "proportional" or "progressive" depends on whether the proportional or the progressive rate is regarded as the normal rate: and this again depends upon the point to which progression is carried in any particular instance. Most of the systems described in the reports would be classed as progressive, although the progression generally stops at some point or other, after which the rate becomes proportional merely. The leading principle, however, is to impose higher rates as the income increases, so as to throw a more than proportional burden upon the wealthier classes.

Graduation in this sense is effected in the systems described by a regular progressive scale, the main forms of which may be classified under three heads:

(a) The taxpayers are arranged in a number of categories according to the amount of income returned by or ascribed to them, and a definite sum of money fixed as the tax in each category, which is not subject to variation from year to year. The number of categories is very large (generally well over one hundred), and the rate of progression very gradual. This system is characteristic of the German group of taxes including the Austrian; and all the German income taxes . . . (except the Bavarian unearned income tax and the Baden tax) afford examples of it. A variation of this method is to be found in some of the smaller states, e. g., Anhalt and Lippe-Deimold and Hamburg, where the definite money rate fixed for each category is a unit or standard merely, any multiple of which may be levied in any year as revenue requires. But a noticeable point about the continental income taxes as a whole is that the rates are laid down once for all in the law instituting the tax.

(b) The taxpayers are arranged in categories, and each category is taxed at a certain percentage rate, the rate rising with each category till the limit of progression is reached. Under this system the categories are few in number; and, as within the limits of each category the charge rises proportionally only, and a progressive rise only occurs at a few specified points, the progression appears to be less evenly diffused over the whole range of incomes. The

chief examples of this method are found among the Swiss cantons, e. g. Uri, Appenzell (Rhodes Extérieures), Vaud (with seven categories), Bâle-ville, and Lucerne (with three categories); Denmark (with thirteen categories) is another instance of it. A variation of this system is that existing in some Swiss cantons such as Bâle-ville, where each portion of the income is taxed only at the rate applicable to it, the first 4000 fr. at 1%, the next 4000 fr. at 2% and so on. This has the effect of further diffusing the progression.

(c) Other varieties which may be grouped under one head are those in which a scale of progression is based upon, or combined with, the partial exemption of income from taxation technically known as "abatement." Scandinavia and Holland are the chief examples under this head. In Norway and Holland the system depends on abatement combined with a fixed percentage rate of tax up to a certain limit, portions of income beyond that limit being taxed at a higher rate or rates. This insures stronger progression in the lower grades. In Baden, where the system is similar, the progressive rates apply to the whole of the income and not merely to the portions above the specified limits. In Denmark abatement is combined with percentage progression. An example of the manner in which exemption or abatement is utilised to transform a proportional into a progressive rate is afforded by the system in force in the canton of Neuchâtel. The rate of the tax is fixed at 1.20% but, as a sum of 600 fr. is allowed to be deducted from every taxable income, the rate varies from say, 0.30% on an income of 800 fr., to 0.48% on one of 1000 fr., 1.13% on an income of 10,000 fr., and so on until, when an income of 400,000 fr. is reached, the full 1.20% rate is practically charged. Zurich, among others, affords a somewhat similar example of "abatement." (CD. 2587, p. vi.)

The exemption of a certain minimum income (the "minimum of subsistence") is recognised in most fiscal systems. The limit of exemption for income tax purposes is fixed:

	£.	s.	d.	
In Prussia at	50	0	0	per annum
In Austria at	50	0	0	per annum
In Holland at	54	0	0	per annum
In Norway at	18	0	0	per annum
In Sweden at	24	5	0	per annum
	33	0	0	per annum
In Denmark (according to locality) at.....	39	0	0	per annum
	44	0	0	per annum
In Italy at	16	0	0	per annum
In Spain (for private individuals) at.....	45	0	0	per annum
And (for state employes) at.....	31	0	0	per annum

Some of the rates of graduation in force may be briefly mentioned. In Prussia the rate commences at 0.67% on 45*l.* It rises gradually to 1% on 60*l.*, 2% on 150*l.*, 3% on 500*l.*, and reaches the maximum of 4% at incomes exceeding 5000*l.* In Saxony the rate commences at 0.25% on 20*l.* It rises gradually to 1% on 50*l.*, 2% on 140*l.*, 3% on about 260*l.*, 4% on about 1600*l.*, and reaches the maximum of 5% at incomes of 5000*l.* and over. In Austria the rate commences at 0.6% on 52*l.* It rises gradually to 1% on 1000*l.*, 2% 300*l.*, 3% on about 1000*l.*,

4% on about 400*l.* The maximum of nearly 5% is reached only for very large incomes. In Sweden the rate commences at 0.2% on about 55*l.* It thence increases gradually to 1% on about 277*l.*, 2% on about 1417*l.*, 3% on about 3666*l.*, and reaches the maximum of 4% on an income of about 8083*l.* But there is a 'general supply' tax which levies 1% on incomes assessed to the income tax. In Denmark the rate commences at 1.3% on about 39*l.* It then rises in seven stages to 2% on incomes of from 833*l.* to 1110*l.*, and reaches the maximum of 2½% in five further stages for incomes of 5500*l.* and over.

In all these States the progression is a gradual one, on an average ranging from about 0.6% on a labourer's income to a maximum of 4 or 5% (say 10*d.* or 1*s.* in the £) on incomes of the richest classes. In Hamburg the maximum has in some recent years reached 6%, while in Baden the maximum is only 3½%. The progression is most rapid in the early stages; a rate of 1% or 1¼% is usually reached for an income of 100*l.* An income of 200*l.* pays on the average nearly 2%, say 4½*d.* in the pound; after the 2% rate is passed the progression becomes slower. In Prussia an income of 500*l.* pays 3%; and the maximum of 4% is only reached at incomes exceeding 5000*l.* The rate for the largest income is at the most about twice as high as that on 500*l.*, and usually not more than one-third higher.

In Bavaria the 'unearned income tax' rate starts at 1½% on 3*l.* 10*s.*, it rises at 5*l.* to 2%, at 20*l.* to 2½%, at 35*l.* to 3%, at 50*l.* to 3½%, at 150*l.* to 3¾%, and at 5000*l.* to the maximum of 4%. The 'earned income tax' rate commences at 0.1% on 25*l.* It thence rises gradually to 1% on about 100*l.*, 2% on about 1600*l.*, 3% on about 3000*l.*, and reaches the maximum of 4% at incomes of 10,000*l.* and over. In the graduation of the unearned income taxes Holland adopts the same principle as that for the earned income tax, but imposes a higher rate. The rate in Holland resembles that in Bavaria, except in the case of the highest incomes, where the Bavarian tax becomes nearly 1% greater.

In Switzerland there are a number of income taxes and a great variety of systems in force in the different cantons; and

generally the graduation or progression adopted is more marked than in the countries already referred to. Except in Bâle-ville, an income of 40*l.* (1000*fr.*) is liable to tax, but the rate is usually very low. From 40*l.* to about 400*l.* (10,000*fr.*) there is generally a rapid progression; afterwards the graduation becomes slower till the maximum is reached. This takes place at various points in the several cantons; but in every case, if it is not reached at 4000*l.* (100,000*fr.*), the subsequent progression is slight.

Special Message from the Governor Submitting to the Legislature Certified Copy of a Resolution of Congress, Entitled "Joint Resolutions Proposing an Amendment to the Constitution of the United States.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,

ALBANY, January 5, 1910.

To The Legislature:

* * * * *

I am in favor of conferring upon the federal government the power to lay and collect an income tax without apportionment among the states according to population. I believe that this power should be held by the federal government so as properly to equip it with the means of meeting national exigencies.

But the power to tax incomes should not be granted in such terms as to subject to federal taxation the incomes derived from the bonds issued by the state itself, or those issued by municipal governments organized under the state's authority. To place the borrowing capacity of the state and of its governmental agencies at the mercy of the federal taxing power would be an impairment of the essential rights of the state which, as its officers, we are bound to defend.

You are called upon to deal with a specific proposal to amend the Constitution, and your action must necessarily be determined not by a general consideration of the propriety of a just federal income tax, or of giving to the federal government the power to lay such a tax, but whether or not the particular proposal is of such a character as to warrant your assent.

This proposal is that the federal government shall have the power to lay and collect taxes on income "*from whatever source derived.*"

It is to be borne in mind that this is not a mere statute to be construed in the light of constitutional restrictions, express or implied, but a proposed amendment to the Constitution itself, which, if ratified, will be in effect a grant to the federal government of the power which it defines.

The comprehensive words, "*from whatever source derived,*" if taken in their natural sense, would include not only incomes from ordinary real or personal property, but also incomes derived from state and municipal securities.

It may be urged that the amendment would be limited by construction. But there can be no satisfactory assurance of this. The words in terms are all inclusive. An amendment to the Constitution of the United States is the most important of political acts, and there should be no amendment expressed in such terms as to afford the opportunity for federal action in violation of the fundamental conditions of state authority.

I am not now referring to the advantage which the states might derive from the exclusive power to tax incomes from property, or to the argument that for this reason the power to tax such incomes should be withheld from the federal government. To that argument I do not assent.

I am referring to a proposal to authorize a tax which might be laid in fact upon the instrumentalities of state government. In order that a market may be provided for state bonds, and for municipal bonds, and that thus means may be afforded for state and local administration, such securities are from time to time exempted from taxation. In this way lower rates of interest are paid than would otherwise be possible. To permit such securities to be the subject of federal taxation is to place such limitations upon the borrowing power of the state as to make the performance of the functions of local government a matter of federal grace.

This has been repeatedly recognized. In the case of *The Collector v. Day* (11 Wall. on p. 127) decided in 1870, the United States Supreme Court said:

"It is admitted that there is no express provision in the Constitution that prohibits the general government from taxing the means and instrumentalities of the states, nor is there any prohibiting the states from taxing the means and instrumentalities of that government. In both cases the exemption rests upon necessary implication, and is upheld by the great law of self-preservation; as any government, whose means employed in conducting its operations, if subject to the control of another and distinct government, can exist only at the mercy of that government. Of what avail are these means if another power may tax them at discretion?"

In the case of *Pollock v. Farmer's Loan & Trust Co.* (157 U. S. on pp. 584-5), Chief Justice Fuller said, referring to the tax upon incomes from municipal bonds, one of the matters there involved:

"A municipal corporation is the representative of the state and one of the instrumentalities of the state government. It was long ago determined that the property and revenues of municipal corporations are not subjects of federal taxation. * * * But we think the same want of power to tax the property or revenues of the states or their instrumentalities exists in relation to a tax on the income from their securities."

In the same case Mr. Justice Field said (*Id.* on p. 601):

"These bonds and securities are as important to the performance of the duties of the state as like bonds and securities of the United States are important to the performance of their duties, and are as exempt from the taxation of the United States as the former are exempt from the taxation of the states."

And the learned Judge added, quoting from *United States v. Railroad Co.* (17 Wall. on pp. 322, 327) as follows:

"The right of the states to administer their own affairs through their legislative, executive and judicial departments, in their own manner through their own agencies, is conceded by the uniform decisions of this court, and by the practice of the federal government from its organization. This carries with it an exemption of those agencies and instruments from the taxing power of the federal government. If they may be taxed lightly,

they may be taxed heavily; if justly, oppressively. Their operation may be impeded and may be destroyed, if any interference is permitted. Hence, the beginning of such taxation is not allowed on the one side, is not claimed on the other."

While the justices of the court in the *Pollock* case differed in opinion upon the question whether a tax upon income from property was a direct tax and as such could not be laid without apportionment, they were unanimous in their conclusion that no federal tax could be laid upon the income from municipal bonds. Mr. Justice White, who dissented in the *Pollock* case with regard to other questions, as to this said (157 U. S. on p. 652):

"The authorities cited in the opinion are decisive of this question. They are relevant to one case and not to the other, because, in the one case, there is full power in the federal government to tax, the only controversy being whether the tax imposed is direct or indirect, while in the other there is no power whatever in the federal government, and therefore the levy, whether direct or indirect, is beyond the taxing power."

It is certainly significant that the words, "*from whatever source derived*," have been introduced into the proposed amendment as if it were the intention to make it impossible for the claim to be urged that the income from any property, even though it consist of the bonds of the state or of a municipality organized by it, will be removed from the reach of the taxing power of the federal government.

The immunity from federal taxation that the state and its instrumentalities of government now enjoy is derived not from any express provision of the federal Constitution, but from what has been deemed to be necessary implication. Who can say that any such implication with respect to the proposed tax will survive the adoption of this explicit and comprehensive amendment?

We cannot suppose that Congress will not seek to tax incomes derived from securities issued by the state and its municipalities. It has repeatedly endeavored to lay such taxes and its efforts have been defeated only by implied constitutional restriction which this amendment threatens to destroy. While we may de-

sire that the federal government may be equipped with all necessary national powers in order that it may perform its national function, we must be equally solicitous to secure the essential bases of state government.

I therefore deem it my duty, as Governor of the State, to recommend that this proposed amendment should not be ratified.

CHARLES E. HUGHES.

Spectator. 95: 246-7. August 19, 1905.

Graduated Income-Tax.

Exemption and abatement, whether or not combined with a graduation of rate, are found in all fiscal systems, including our own, but foreign practice shows some interesting experiments. The only question in exemption is the amount of the minimum income tax. Our own minimum is £160; in Prussia it is £45, in Saxony £20, in Austria £50, in Italy £32, in Spain £45, in Holland, £54. . . . The income to which the maximum rate applies is with us £700; elsewhere it is much higher, being £5000 in Prussia and Saxony, £10,000 in Baden and, probably, in Austria, £8,083 in Sweden, £1,333 in Norway, and £5,500 in Denmark. Taking the whole system of graduation and exemption into account, the average result, according to the report is that the tax ranges from about .6 per cent. on a labourer's income to about 5 per cent. on that of the richest class.

Survey. 23: 515-8. January 15, 1910.

English Budget Proposals. Edwin R. A. Seligman.

England is henceforth to enforce both the differentiation and the graduation of the income tax. In other words, not only is a distinction made between earned and unearned incomes, whereby the unearned incomes are taxed at a higher rate than the earned incomes; but the beginnings of progressive taxation are intro-

duced by the introduction of the so-called super-tax. That is to say, whenever the total income exceeds £5,000, an additional duty of 6d. in the pound (over and above the normal rate of 1s. 2d) is charged for every pound of the amount by which the total income exceeds £3000. Moreover, on the smaller incomes, in addition to the abatements that are already in force, it is provided that a reduction of £10 in the tax shall be made for each child. Thus at both ends of the scale modifications of the income tax are provided which look to a greater approximation to the principle of ability to pay.

The importance of this change of the income tax lies chiefly in the application of the doctrine of progression. In order, however, to make this possible, it has become necessary to abandon, so far as the larger incomes are concerned, the old principle of the schedule tax, and to replace it by that of the lump-sum tax. That is to say, the proportional part of the income tax will still be left as formerly, according to the schedule scheme; but the super-tax will have to be assessed according to the lump-sum scheme. Grave doubts have been expressed as to the administrative practicability of the new project; and its fortunes will be watched with great interest. It is worthy of note also that the income tax project which has been adopted by the lower house in France pursues the same double plan.

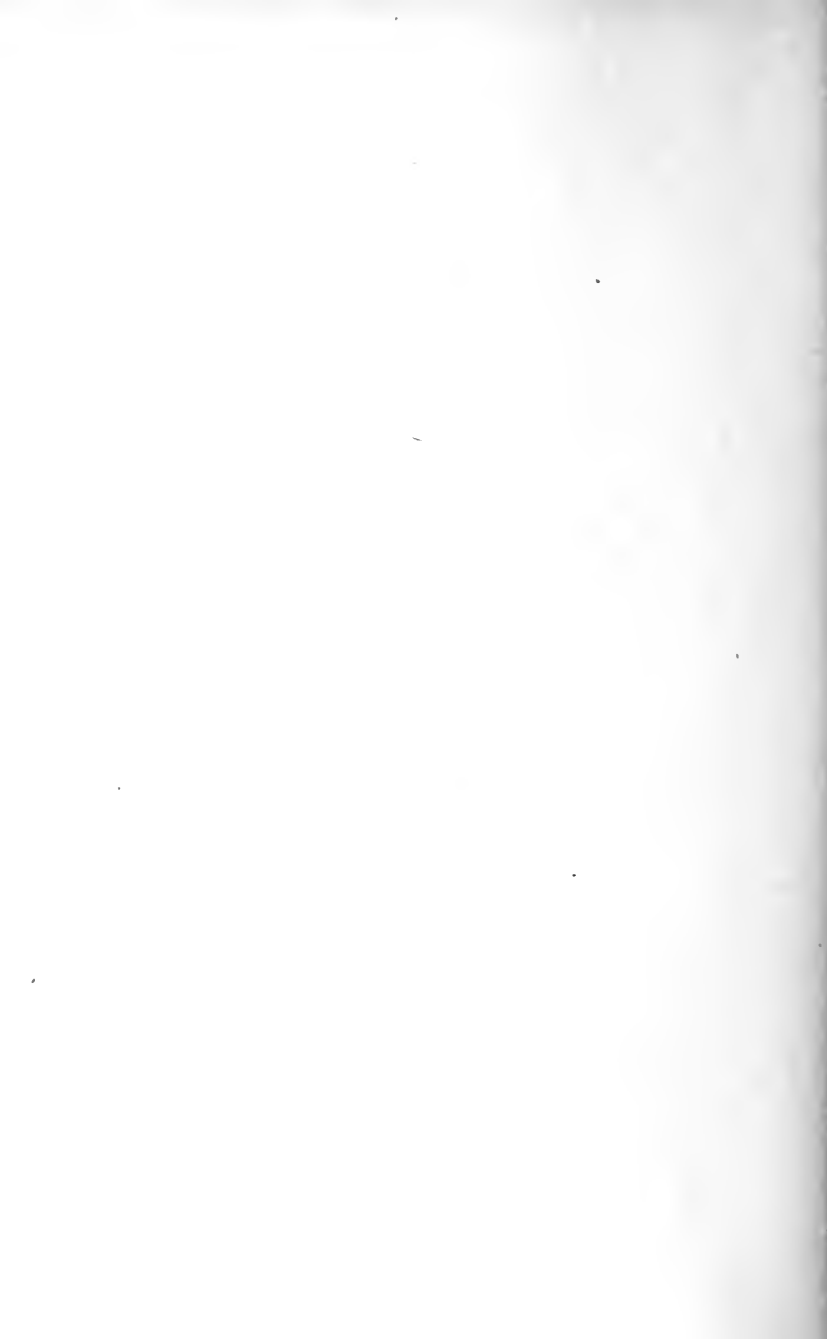
. . . taking it as a whole, the English scheme is in advance of the tax system as found in any other leading country. For it introduces into the income tax both the principle of differentiation and that of graduation, of which only the one or the other is found in other countries; and it applies to the inheritance tax a rather drastic scale of progression, which, for instance, it has thus far been found impossible to introduce even in Germany.

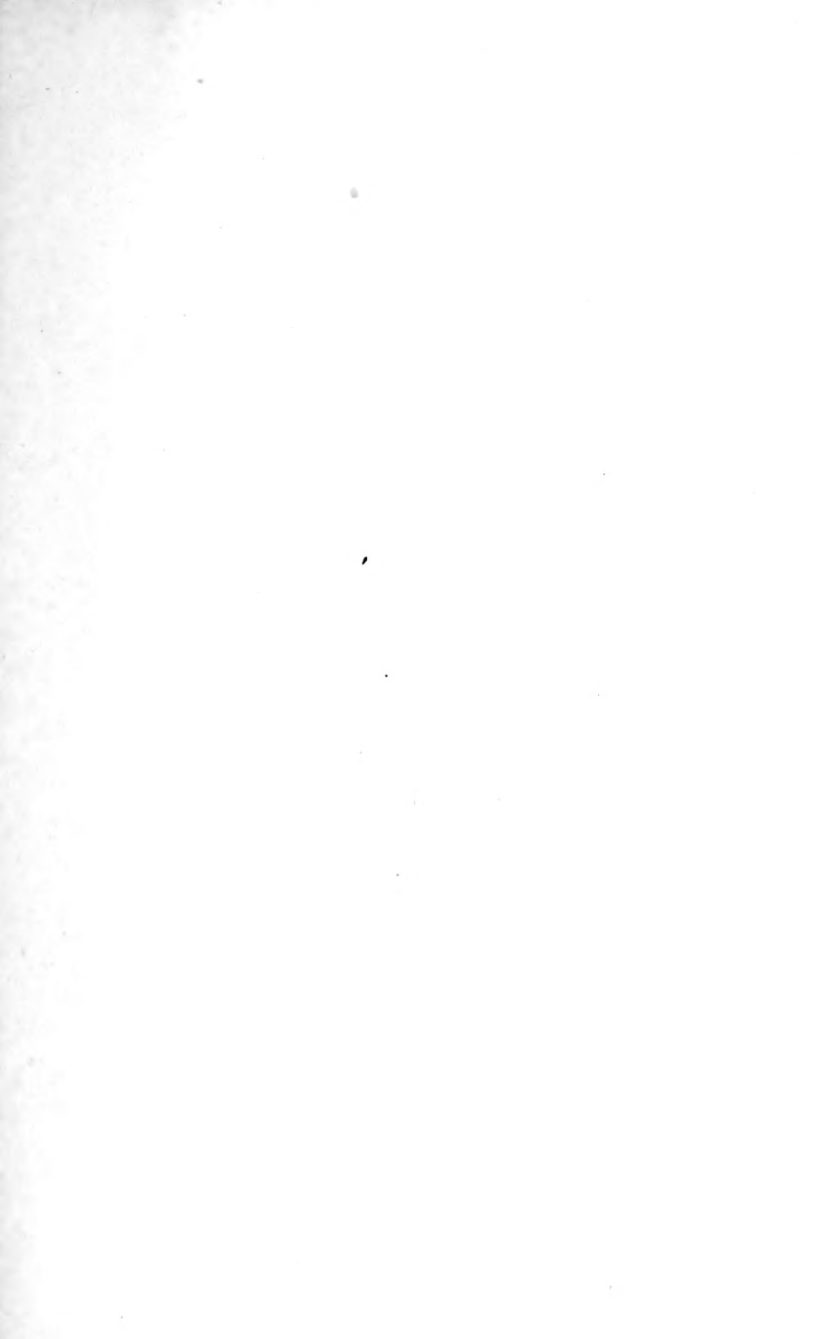
It will be seen, therefore, that England is, consciously or unconsciously, attempting to realize the more modern social ideas in taxation. In the first place, so far as the great mass of indirect taxes are concerned, England not only retains but increases those particular indirect taxes, whose social effects may be considered on the whole relatively innocuous. It does not attempt to revert to the discarded system of the past, but confines

itself to the three great categories of spirits, tobacco and stamp taxation. It thus spreads over the community as a whole, the burdens of a system of taxes which tends to decrease the weight of the direct taxes. Secondly, in the case of the direct taxes, England is approaching the realization of the social ideas contained in the modern theory of faculty or ability to pay. For the modern conception of ability to pay includes far more than the sacrifice theory as formulated by John Stuart Mill. The sacrifice theory looks primarily at the disposition of a man's wealth; the newer idea is that of privilege, which looks at the acquisition of the wealth. The older doctrine was a consumption doctrine; the newer doctrine is a production doctrine. The modern theory of ability to pay in taxation is a compound of both elements. The sacrifice theory is seen in the various applications of the idea of progression or graduation of taxation. The privilege theory is seen primarily in the system of differentiation as applied to the income tax, and in the increment value duty.

The English budget, therefore, must not be considered a triumph for the single-taxers. It accepts indeed a small part of that reasoning, but it refuses to be bound by its narrow limitations. It adopts the idea of privilege which the single-taxers have done such good work in spreading, but it declines to confine itself to the particular form of privilege the abolition of which is so dear to them. Consciously or unconsciously the English budget not only generalizes the conception of privilege, but combines it with that of sacrifice, and the result is a scheme of taxation which is, on the whole, far in advance of that existing anywhere else in the civilized world, and which in some of its elements at least may well serve as a model for the United States. In the United States indeed we have not yet reached the point of economic and social development that has been attained by England, and we are moreover hampered by all manner of constitutional limitations which are absent in Great Britain. Yet even in the United States we have perhaps reached a point where it will become possible to take at all events the first steps in the introduction of the unearned increment tax in our cities, of the progressive inheritance tax in our states, and of the differentiated income tax in the nation.

The forces which are responsible for the present English budget are gradually leavening the life of all modern civilized societies; and the translation into the fiscal sphere of these social forces can not much longer be delayed, whether in America or on the European continent. The English budget, is at bottom, the fiscal expression of a great social development.







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